

# BREAKING AWAY

Kosovo's Unilateral Secession

ARGYRO KARTSONAKI



Serbia with Kosovo  
*serbia with kosovo*

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To our Alma,  
whom we lost the day the contract for this book was offered.





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#### NOTE

1. This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

# Abbreviations

AAK	Aleanca për Ardhmërinë e Kosovës/Alliance for the Future of Kosovo
EC	European Community
EEAS	European External Action Service
EU	European Union
EULEX	European Union Rule of Law Mission in Kosovo
FFO	Federal Foreign Office
FRY	Federal Republic of Yugoslavia
GDP	Gross Domestic Product
HRW	Human Rights Watch
ICG	International Crisis Group
ICJ	International Court of Justice
ICTY	International Criminal Tribunal for the former Yugoslavia
IFES	International Foundation for Electoral Systems
I.I.C.K.	Independent International Commission on Kosovo
IMF	International Monetary Fund
Int.	Interview
Ints.	Interviews
IOC	International Olympic Committee
IOM	International Organization for Migration
IPA	Instrument for Pre-Accession Assistance

KCSF	Kosovar Civil Society Foundation
KFOR	Kosovo Force
KLA	Kosovo Liberation Army
KPC	Kosovo Protection Corps
KSF	Kosovo Security Force
KVM	Kosovo Verification Mission
LDK	Lidhja Demokratike e Kosovës/Democratic League of Kosovo
LPK	Lëvizja Popullore e Kosovës/People's Movement of Kosovo
MFA	Ministry of Foreign Affairs
MUP	Ministry of Interior, Republic of Serbia
NATO	North Atlantic Treaty Organization
NISMA	NISMA për Kosovën/Initiative for Kosovo
OUA	Organization of African Unity
OSCE	Organization for Security and Cooperation in Europe
PDK	Partia Demokratike e Kosovës/ Democratic Party of Kosovo
PISG	Provisional Institutions of Self-Government
R2P	Responsibility to Protect
RCC	Regional Cooperation Council
RNEP	Royal Norwegian Embassy in Pristina
SAA	Stabilization and Association Agreement
SANU	Srpska Akademija Nauka i Umetnosti/Serbian Academy of Sciences and Arts
SEECF	South-East European Cooperation Process
SFTF	State Failure Task Force
SOK	Statistical Office of Kosovo
SRSG	Special Representative of the Secretary-General
STIKK	Kosovo Association of Information and Telecommunication Technology
TRNC	Turkish Republic of Northern Cyprus
UÇK	Ushtria Çlirimtare e Kosovës
UN	United Nations
UNGA	United Nations General Assembly

UNHCR	United Nations High Commissioner for Refugees
UNMIK	United Nations Mission in Kosovo
UNESCO	United Nations Educational, Scientific, and Cultural Organization
UNSC	United Nations Security Council
USA	United States of America
USDS	United States Department of State
USSR	Union of Soviet Socialist Republics





# Introduction

“The phrase [self-determination] is simply loaded with dynamite. It will raise hopes which can never be realized. It will, I fear, cost thousands of lives,” Robert Lansing US Secretary of State prophetically wrote in his notes in 1918 (Lansing 1921, 97). Secession is not the only way of exercising self-determination; it is though, the most radical and the bloodiest. It is the manifestation of freedom from foreign rule, the restoration of a glorious past, and remedy for historical injustices; it is the materialization of stories told for centuries, passing on from generation to generation feelings of victimization and the desire to avenge for past sufferings.

Nonetheless, most secessions are doomed to fail. More often than not the parent state wins the separatist war that usually erupts and the seceding region reverts to its control. Even in cases when the region manages to secede, the parent state usually enjoys the support of the existing states, who withhold international recognition of the seceding entity, which in turn may lead to the creation of a *de facto* state: a state that functions as an illegal personality, allegedly non-existent, isolated, and dependent on a patron state.

The negative odds for success have not diminished secessionist attempts. On the contrary, independence referenda recently carried out in Catalonia and Iraqi Kurdistan show that secession is on the rise. This makes Lansing’s comments timely again, this time when he wondered what the unit of self-determination would be. He said that without a definite unit which is practical, application of this principle is dangerous to peace and stability (Lansing 1921). The questions Lansing posed on who would have the right to self-determination and under what conditions still remain unanswered despite the attention they have drawn from legal, political, and philosophical perspectives. Fact remains, however, that secession poses a serious security concern that has regional and potentially global effects. The West has already claimed

that there has been a “unique case” of secession referring to Kosovo. Thus, there cannot be a second unique successful secession; a second one would constitute a pattern with unpredictable results.

For this reason and in order to make meaningful decisions on how to manage separatist attempts, there is an imperative need to understand how these demands emerge, how they meet the decision to declare independence, and what their chances of success are. From all these questions that are still due to be answered this book sheds light on why and how a unilateral secession can succeed using Kosovo as a case study. Kosovo had a failed attempt to secede in 1991 and a far more successful one in 2008. In 1991–1995 when Kosovo was pleading for attention due to the human rights violations Kosovo Albanians suffered under Slobodan Milošević’s rule, their demands were deliberately ignored by the West. In 2008 the same countries that ignored Kosovo in the early 1990s championed in favor of its independence, mobilizing enormous financial, technical, diplomatic, and political resources to ensure the success of its secession. This research investigates what changed between 1991 and 2008 and led to this change of stance, creating the conditions for Kosovo’s second attempt at secession to succeed.

Here some clarifications are due. The first clarification concerns the definition of unilateral secession. A unilateral secession aims to create a new state on a territory previously belonging to an existing state, without the consent of the latter. Thus, what differentiates unilateral secessions from other forms of separation is the lack of agreement from the parent state. This lack of agreement makes unilateral secessions difficult to succeed as states are protected by the principles of sovereignty and territorial integrity, with peer states usually refraining from recognizing new aspiring states coming out of separatist conflicts.

Second, Kosovo has yet to become a fully-fledged member of the international community: it is not a member of the United Nations and its progress toward this direction seems to have stalled. Nevertheless, Kosovo has reached such a level of external recognition and internal viability that its separation from Serbia is irreversible. Serbia has excluded use of force as an option to re-occupy Kosovo and there is a firm commitment by the international actors involved that they will defend Kosovo against any such threat. As Kosovo is highly unlikely to voluntarily consent to return under Belgrade’s rule, the continuation of its secession is guaranteed.

Third, a definition is necessary on how and when a unilateral secession can be regarded as successful. The majority of the literature takes for granted that secession is successful when it leads to the creation of a state as demonstrated by international recognition and accession to the UN. Undeniably international recognition is of major importance. After official international recognition is attributed the state is protected by international norms and principles of sovereignty, territorial integrity, and non-interference; it has

access to international markets, loans, and funding schemes for development; international foreign investment is facilitated enhancing economic opportunities and minimizing dependence on patron states.

Nevertheless, international recognition without internal viability is not enough. International recognition has proven to be an empty shell for numerous states, defined as failed by other scholars (Rotberg 2003, Zartman 1995, Krasner 2004). Despite being a part of the club of states, they remain non-functional, unable to provide basic social services, in some cases unable to provide security or exert control over population and territory. This leads to pockets of instability in the affected regions, turning notions of statehood and sovereignty to hollow words. Here in this work, internal viability is defined as the ability of the government to provide domestic order, effectively ruling over population and territory. Once this minimum requirement is fulfilled, internal viability may include the ability to provide social services or demonstrate democratic governance.

Internal viability, despite being often neglected as a criterion of successful secession, has shown itself to be of vital importance for the survival of several *de facto* states. Somaliland, for example, seems to be far more stable than its parent state (Maogoto 2013, Schoiswohl 2004), which ensures its continuation despite the several challenges an unrecognized entity has to confront. Nagorno-Karabakh, despite being recognized by no-one, is an example of effective governance (Gardner 2008). One of the reasons why these entities continue to exist for more than 20 years is the stability via good governance they provide to their citizens. This is also strengthened by the belief that compliance with Western standards of democracy can lead to international recognition (Caspersen 2011), an idea that international actors tried to induce to Kosovo with the standards before status policy. Nonetheless, internal viability without external recognition poses significant limitations. The aspiring state is isolated, usually poor, threatened by the possibility of the parent state trying to reoccupy it by military means and dependent on a patron state to provide for services, resources, and security.

Thus, for a unilateral secession to be successful it needs to result in an entity that has achieved such a level of external recognition and internal viability that renders its secession irreversible and ensures the continuation of its existence. Although external recognition and internal viability are deemed to be separate criteria, their interrelation is undeniable. A recognized entity increases its chances of internal viability through the opportunities the participation in the international system of states creates. A viable entity increases the chances of external engagement with other states, as the example of Somaliland demonstrates.

Although many secessionist cases have achieved significant levels of internal viability and unofficial international engagement, few have achieved that at the level Kosovo has. In terms of external recognition Kosovo has

been recognized by 114<sup>1</sup> UN member states. This is an impressive number for a unilateral secession, especially when compared to other separatist cases. Kosovo also maintains close relationships with a number of non-recognizing states. Slovakia and Greece, for instance, maintain liaison offices in Kosovo and are also quite supportive toward Kosovo's attempt to integrate into various regional organizations. Relations with Serbia are in general terms in course of improvement, with ongoing negotiations under the aegis of the European Union. In light of Serbia's objective of European integration, engagement and attempt for normalization of relations with Kosovo is likely to continue, which would also constitute the final step in Kosovo's path to uncontested statehood.

Besides, Kosovo has achieved a remarkable level of internal viability, in terms of capacity to exert authority and maintain functional state institutions. Kosovo has established a stable state, able to provide order over the vast majority of its territory. Admittedly, Kosovo's institutions are still weak and they face shortcomings in several areas, especially as regards corruption and lack of rule of law. Nevertheless, with the support of international actors on the ground, the EU in particular, Kosovo makes steps forward, developing state structures and capabilities.

Kosovo's secession succeeded because it managed to secure quality support in favor of its independence. This quality support, meaning support from influential countries, promoted Kosovo's international acceptance after it unilaterally declared independence for the second time, leading to a considerable and necessary quantity of international recognitions. In addition, these states with their firm commitment to back Kosovo's independence provide for the security of its territorial integrity. Furthermore, external assistance has extended also to promote the internal viability of Kosovo. Western states have released huge amounts of resources since 1999. It is due to these resources and strong external support that Kosovo has managed to build a functioning state.

However, it would be short-sighted to argue that this support came suddenly after Kosovo declared independence in 2008. On the contrary, it was an outcome of a long process that started in the early 1990s. Changes and interactions at and across four levels of analysis since 1991 shifted the power dynamic between Kosovo and Serbia, creating favorable conditions for its successful secession after 2008. The four levels of analysis are divided as follows: the local or the seceding entity level, thus Kosovo; the state or parent state level, that is, Serbia; the regional level, that is, the Balkans; and the global level. Dominos of events and interaction of actors at those levels and the geographic location of Kosovo in Europe tied international actors in an alliance with Kosovo that resulted in quality support in favor of its secession.

This book is divided into three main parts. The first part explains in detail the conceptual underpinnings of successful secession, explaining the importance of international recognition and internal viability. The second and the third parts are empirical ones focusing on Kosovo. The second part looks at the past and at events that occurred before the unilateral declaration of independence initiating the process of successful secession. Specific emphasis is attributed to the years 1991–1999 when the NATO air offensive took place constituting the main turning point in Kosovo's history of independence. Not few would claim afterwards that Kosovo's independence started then instead of 2008 with the declaration of 2008 being no more than a statement of a pre-existing situation. The third part of the book looks at Kosovo's situation after it declared independence and assesses the success of its secession in terms of international recognition and internal viability. It focuses on Kosovo's external relations, its relations with non-recognizing states and Serbia. It also shows its progress and shortcomings in terms of internal state function.

In more detail, the book begins by presenting the main theoretical concepts around secession, starting by defining unilateral secession. Then it defines the state and when a state comes into existence. This leads to the debate between theories of international recognition and, in particular, the debate between the constitutive theory and the declaratory theory. Following that, this first chapter presents the implications of lack of international recognition for a seceding entity. Afterwards the focus shifts in explaining internal viability, exploring when a state can be regarded as viable or not, demonstrating also the interdependence between external support and internal viability.

The second part presents the historical foundations on which Kosovo's successful secession was based. This was a process that started long before 2008 and the unilateral declaration of independence. Kosovo declared independence for the first time in 1991. Still this does not mean that Kosovo's desire for independence started then. Kosovo's struggle for independence can be traced back to the beginning of the twentieth century when Kosovo was conquered by Serbia in the wars of liberation from the Ottoman Empire. Nevertheless, with the exception of a short period during World War II, Kosovo remained a part of Yugoslavia and Serbia.

Kosovo declared independence in 1991 upon the dissolution of Yugoslavia. Its demands, though, were deliberately ignored by the international community. It was resolved that only the six constituent Republics of Yugoslavia would have the right to statehood. Despite its elevated status in the Yugoslav structures, Kosovo was not given that right and for the first half of the decade it was treated as an internal matter of Serbia. It was not before 1997 that Kosovo finally managed to attract meaningful international attention.

There are several reasons that account for this neglect. The status of Kosovo as a province of Serbia was one of them. Then Kosovo for the first

half of the decade had decided to adopt a non-violent approach to gain statehood. Although, this brought some positive results in the long term, it failed to attract the attention of the international community at first instance. The lack of violence in Kosovo was a gift for the international actors, who sought to put an end to the wars in the northern republics and engage Slobodan Milošević into peace negotiations. Being overwhelmed by the Yugoslav wars, the international community, and in particular the European Community at that time, would continue to ignore Kosovo for as long as it would not open another front in the war, further aggravating regional destabilization.

This would change in the middle of the decade. Kosovars' patience was exhausted by the exclusion from the Dayton accords. This led to the emergence of the Kosovo Liberation Army, a military organization that pursued independence by violent means. By that time, the war in Bosnia-Herzegovina had ended and international actors had the time and the will to settle the issue of Kosovo. Milošević was no more perceived as a statesman that had to be included in complex peace negotiations, but as a dictator and potentially a war criminal, although not yet indicted by the International Criminal Tribunal for the former Yugoslavia (ICTY). The emergence of violence in Kosovo and the potential destabilizing effects this would have for the fragile peace in the region, the ruthless reaction of the Serbian regime toward the KLA, and the previous experience from the Yugoslav wars, made the West notice Kosovo and intervene in its favor. By the end of the decade, Kosovo was an issue of global importance that led to a seventy-eight-day air campaign against a sovereign state, without the authorization of the UN Security Council.

Despite this not being the aim of the NATO intervention, it constituted the first step toward Kosovo's secession. After the air offensive, Kosovo was placed under an UN-led international administration, practically annulling Serbia's authority in Kosovo. Notwithstanding its shortcomings, the UN administration played an important role to Kosovo's successful secession. It may have had an institution-building mandate; it promoted, though, state building, putting the foundations in place for Kosovo to create a viable state. It also provided arguments for the uniqueness of Kosovo as a case for these states that recognized its independence, but were quick to declare that it was not a precedent that could be repeated.

Continuing to the third part of this book, it presents Kosovo's progress in terms of external recognition and internal viability after it unilaterally declared independence in 2008. In the immediate aftermath of independence, Serbia declared Kosovo's proclamation illegal and pledged to employ any non-violent means possible in order to prevent a *fait accompli*. Russia, China, and five EU member states—Spain, Greece, Cyprus, Slovakia, and Romania—considered Kosovo's unilateral act a breach of international law and

called for a solution based on a mutually accepted agreement (UN SC SC/9252 2008).

The United States, the majority of the EU countries, and their allies, however, accepted Kosovo's independence and quickly recognized it as a sovereign and independent state. Justifications on the reasons why they recognized Kosovo as opposed to the common practice of discouraging unilateral secessions varied from case to case. Nevertheless, the majority of recognizing countries added in a way or another that Kosovo was a unique case and could not be seen as an example for other separatist cases. This sparked a debate in both academic and policy circles as to whether Kosovo eroded the firm adherence to the principles of sovereignty and territorial integrity and whether it signified a change of stance toward the right to self-determination and the forms of its implementation.

The relevant ruling of the International Court of Justice on the legality of Kosovo's unilateral declaration of independence in 2010 did little to solve this debate. The Court answered the question as narrowly as possible avoiding the thorny matters of state creation and issues such as whether a right to remedial secession exists either, in general, or in particular in this case. Thus, the ruling provided little advice to states that waited for guidance from the ICJ before proceeding to any recognition. States that had already recognized Kosovo continued to promote its international acceptance, whereas key countries such as Russia, China, and the five non-recognizing EU countries<sup>2</sup> held firm to their position of non-recognition.

Despite the ambivalent opinion from the ICJ and the divided international reaction, Kosovo has managed to progress significantly in these years of independence both with its international and its internal affairs. Internationally, through the constant support of the West, Kosovo has managed to be recognized by 114 UN member states. Furthermore, Kosovo has been accepted to a number of international and regional organizations, while a significant step forward was the signing of the Stabilization and Association Agreement. The SAA is the first contractual relation between EU and Kosovo and the first step of the long path toward its European integration.

Moreover, one of the most important steps toward Kosovo's international acceptance is the ongoing dialogue with Serbia. Serb officials have accepted that Kosovo's secession is irreversible and Serbia needs to move forward to the settlement of this issue. Serbia follows an EU orientated approach resolved to escape the long-lasting international marginalization that followed the Yugoslav wars and Milošević's rule. Prerequisite, however, for its acceptance in the Union is the normalization of the relations with Kosovo as mentioned in chapter 35 of the accession process. With the incentive of European integration the Serbian and Kosovan prime ministers signed the first part of an agreement for the normalization of their relations in 2013. Although Serbia denies that the talks constitute recognition of Kosovo's

independence, the nature of the agreement demonstrates a *de facto* acceptance of Kosovo's secession.

Kosovo has also progressed in terms of its internal viability. It has established functioning state mechanisms that are still weak but increasingly strengthened. Through the agreement with Serbia it has secured its borders and its authority has started to expand in the northern part of Kosovo, mainly inhabited by Serbs. Kosovo police are efficient and Kosovo is fairly safe with violent crime at low levels. In terms of services and infrastructure the situation in Kosovo has been improved, especially in the field of city reconstruction, transportation, and telecommunications. In ten years of independence, Kosovo has made significant progress, creating a state whose institutions and services are gradually improving.

However, Kosovo still faces serious shortcomings in the field of minority rights and rule of law. The enforcement of laws regarding the minorities' rights has been limited. Serbs in particular, continue to be or to feel physically threatened and excluded from Kosovo's political, economic, and professional life. Laws regarding the rights of Serbs remain on paper or are inadequately implemented. Kosovo is also challenged by poverty, organized crime, and corruption.

The EU and the incentive for integration constitute an important driving force behind Kosovo's progress in addressing those issues and also behind Kosovo's progress as an independent state. Kosovo receives substantial financial and institutional support from the EU both collectively through EUL-EX and individually by certain member states. The EU also facilitates the Belgrade-Pristina dialogue and promotes Kosovo's recognition through the prerequisite set to Serbia that the latter has to settle their in-between relations before it joins the EU. Through a strategy of stick-and-carrot the Union creates benchmarks that Kosovo has to reach in order to be able to benefit from EU strategies. Seeking to reach those benchmarks Kosovo implements reforms that strengthen its internal viability, whereas the mere participation in EU sponsored actions enhances Kosovo's international presence.

The West in general and the EU in particular firmly and consistently backed Kosovo's secession. There are various reasons for that. To begin with, the EU seeks first and foremost to ensure and strengthen stability in the region. After the end of the Yugoslav wars the EU implemented several strategies in the Western Balkans aiming for the development, institutional reconstruction, and democratization of the countries involved. After Kosovo's declaration of independence there was no other alternative that would sufficiently ensure peace and stability, but to decisively support the newly created state. Furthermore, due to geographical proximity, stability and welfare in the Balkans is directly connected with stability in the EU. In case of conflict, unrest, or extreme poverty, waves of refugees and labor migrants would head toward the European capitals. The EU, seeking to minimize this



possibility, supports Kosovo's stability and viability through constant financial, technical, and institutional assistance. In addition, the EU cannot afford having a black hole and nest of organized crime and insecurity in its neighborhood. Hence, the EU determined to secure its own borders against imported crime and illegal activities, promotes Kosovo's state building process, aiming to create a stable state able to add positively to the security of the region. Finally, Kosovo's statehood is largely an outcome of the West's actions. A failure to achieve uncontested statehood would be for the West a demonstration of the failure of their strategies. Therefore, the EU and the West are resolved to commit to necessary actions to turn Kosovo from a contested territory to a viable and recognized state.

## METHODS OF RESEARCH

This study is based on Kosovo, a case that had in less than twenty years both an unsuccessful and a successful attempt to secede. It employed process tracing as a method of research having 1991 as a starting point and investigating the events that created the conditions for Kosovo's second secession in 2008 to succeed. Recognizing that Kosovo's demands for secession did not suddenly appear in 1991 the book also shortly presents the historical background preceding the first declaration of independence.

Information was collected through primary and secondary sources and elite interviews. Primary sources included constitutions, government documents, peace agreements, court resolutions and advisory opinions, politicians' speeches, interviews and public statements, legal documents, and resolutions adopted by the United Nations and other international organizations. Secondary sources included books, academic articles, newspaper articles, reports, conference papers, and documentary films. Most of the primary and secondary sources were acquired through the online archives of the respective organizations. However, some sources were also obtained from the library of the Institute of Balkan Studies or were personally given to the author at the interview.

In total the author conducted 34 elite interviews in Pristina, Gračanica, North Mitrovica, and Belgrade. The interviews were predominantly semi-structured with open-ended questions or in some cases unstructured. The interviewees were selected on the basis of their professional capacity and the expectation that their experience in certain events would provide valuable information for the research. They comprised ambassadors/diplomats of both recognizing and non-recognizing states in Pristina and Belgrade; senior UN and EULEX officials; high ranking governmental officials that were present at the Rambouillet and Vienna negotiations; former Yugoslav ambassadors; ambassadors of the Republic of Kosovo; journalists; and members of civil

society in Kosovo (Kosovo Albanians and Kosovo Serbs) and Serbia. In addition to the interviews, the research greatly benefited from all those people in Kosovo and Serbia who unofficially shared their thoughts during the field trips there. The insight they offered in their everyday life and their own past experiences, was invaluable.

Information from interviews and primary and secondary sources were triangulated. Mismatches between data in interviews and primary documents were not uncommon. In such cases, the findings from the primary documents were prioritized over interview findings. In cases where findings from the field trip contradicted secondary sources both approaches are taken into consideration. Finally, in cases where secondary sources contradicted primary sources findings from primary sources were prioritized.

## CLARIFICATIONS

For the sake of clarity it is necessary to explain some of the terms and concepts used throughout this volume.

This work exclusively examines unilateral secession as a phenomenon of international relations. Other alternative ways of territorial settlement of a separatist conflict or the proposal of alternative solutions to secessionist demands is beyond the scope of the research. Similarly it is not the purpose of the research to investigate annexations and irredentas, that is, cases where a region secedes and joins a different—usually neighboring—state.

Moreover, Kosovo is the most successful contemporary case of unilateral secession, that is, secessions without the consent of the parent state. Thus, it is acknowledged that: first, there have been other recent successful cases of secession; however, they were not an outcome of unilateral act, but a result of an agreement between the state and the seceding entity, for example, South Sudan in 2011. Second, historically the unilateral secession of East Pakistan—now Bangladesh—from (West) Pakistan in 1971 is perhaps the most successful case of unilateral secession. However, Bangladesh would be inadequate for a study of contemporary phenomena of secession for several reasons, including that it obtained its independence more than forty years ago in the time of the Cold War and in a completely different international system. In addition, the three main entities involved—Pakistan, Bangladesh, and India—were all a result of decolonization. The secession of Bangladesh, therefore, can also be seen as a belated consequence of the decolonization process.

This research looks into success through the prism of the extent to which a seceding entity has managed to separate from the parent state and create a separate recognized and viable country. Other definitions or perceptions of success remain out of the scope of this project. Thus, this book does not

investigate to what extent Kosovo's secession was successful from a cultural, social, economic, and humanitarian point of view.

Furthermore, analysis on the construction of the Albanian and Serbian identities and in depth analysis of the origins of the conflict in Kosovo is out of the scope of this work. Similarly, it is not the purpose of this project to analyze the background of events that had played a major role for Kosovo's successful secession, but only to assess how and to what extent they facilitated this outcome. For example, it is not the purpose of this book to examine in detail the reasons that led to the dissolution of Yugoslavia or the reasons that led NATO to proceed to the air campaign against the Federal Republic of Yugoslavia (FRY).

The text uses throughout the word "entity," a vague term aiming to describe a de facto independent region or system of governance being usually either in transition or in limbo. An exact definition of such a situation is absent, thus, the flexible term "entity" is used to describe, for instance, seceding territories. This work prefers the word "entity" over other alternative terms, such as seceding groups, as it has a more encompassing meaning including territory, population, as well as societal, political, and economic function. It also describes unrecognized regions that have achieved a level of self-governance, either as self-administered territories inside the borders of an existing state or as de facto independent states that have received no or limited recognition.

The states from which entities seek to secede are interchangeably referred to as "existing states," "central states," or "parent states." The seceding entities are also referred to as "seceding groups" or "seceding movements."

The term "international community" is a euphemism either for the majority of the UN member states or for the West, depending on the context. In cases where appropriate or when there is a clear division among states, the book refers specifically to individual actors or alliances.

Finally, the term Kosovar refers to Kosovo Albanians, whereas the word Kosovan refers to the citizens of Kosovo regardless of ethnicity. Kosovo is referred to with this name instead of its Albanian pronunciation Kosova, with the exception of when a source cites it as Kosova. Bosnia and Herzegovina is also referred to as Bosnia or Bosnia-Herzegovina. The names of places and cities are referred to with the names used in English language and literature, for example, Belgrade instead of Beograd.

## STRUCTURE OF THE BOOK

The book is divided into three main parts. The first part explains the main concepts of the book. The second part examines how events from 1991 to 2008 created the foundations for Kosovo's successful secession. The third

part assesses Kosovo's progress toward international recognition and internal viability since its unilateral declaration of independence in 2008.

The first part of the book introduces the term successful secession, explains its meaning, and sets the criteria for international recognition and internal viability. Thus, chapter 1 provides the conceptual underpinnings of this research and clarifies the main concepts used throughout this work. It defines secession and the state. It explains the two main approaches on international recognition as related to the creation of new states in the international system. Afterwards, the element of internal viability is analyzed. As there is no clear definition on this term, this book analyzes factors that may render a seceding entity failed, that is, its size, economic capabilities, and system of government. In a reverse reading then the chapter concludes on the characteristics that make a state viable.

Chapter 2 presents a brief historical background of the conflict in Kosovo and then focuses on the reasons why Kosovo's first declaration of independence was deliberately neglected by the international community, failing to gain international recognition. It shows how the revocation of Kosovo's autonomy and its characterization as an internal Serbian matter negatively affected the outcome of its first attempt to secede. The chapter also demonstrates how the peaceful situation in Kosovo, at a time when the wars north of Yugoslavia had already started, undermined the success of its first attempt. Finally, this chapter reveals how the changes in the international system and the end of the Cold War affected Kosovo's first attempt to secede.

Chapter 3 investigates the changes that occurred from 1991 to 1999 and turned Kosovo from a Serbian internal matter to a major international (in)security issue that triggered NATO's military intervention. It explains how those changes affected the success of Kosovo's unilateral secession in 2008. This chapter examines Ibrahim Rugova's non-violent resistance and the parallel society the Kosovars established under his guidance. It shows that his failure to gain a seat at the negotiations table at Dayton led to the emergence and growth of the Kosovo Liberation Army (KLA). The chapter also analyzes how Milošević's misrule positively affected the outcome of Kosovo's second secession. Lastly, it reveals the role of the Rambouillet negotiations, the consequences of their failure, and the impact of NATO's subsequent military intervention on the outcome of Kosovo's secession.

Chapter 4 explores how the position of Kosovo under international administration following NATO's air-campaign and how certain events that occurred during this time, affected Kosovo's secession. It presents the structure and the duties of the international administration, evaluating its efficacy and identifying its drawbacks. In addition it reveals how the riots against Serbs in 2004 accelerated the process of Kosovo's secession, leading to the Vienna negotiations and the Ahtisaari plan. Following this, chapter 4 examines the course of the negotiations, exploring why they failed and what their

impact was on Kosovo's unilateral secession, taking place shortly after their conclusion.

The third part of the book examines and explains Kosovo's progress as an independent state. Chapter 5 assesses Kosovo's progress toward external recognition since its unilateral declaration of independence in 2008. It presents Serbia's first reactions as well as the reaction of Russia, China, the United States, the UK, France, and the rest of the EU member states. It engages with the debate on whether Kosovo provided a precedent for similar separatist movements or whether it constitutes a unique case, presenting examples of other cases. The chapter also examines the decision of the International Court of Justice on the legality of Kosovo's unilateral declaration of independence, showing that the narrow interpretation of the court provided little guidance to states that waited for its ruling before proceeding to any recognition of Kosovo. The chapter continues with an assessment of Kosovo's current international status. It evaluates the progress with Serbia and presents its relations with non-recognizing EU and certain UN states.

Chapter 6 presents Kosovo's capacities in terms of internal viability. It shows its progress in terms of creating functioning institutions and building a sustainable state in less than ten years of independence. The chapter also shows the shortcomings Kosovo still has to deal with and highlights areas for improvement. The chapter also examines Kosovo's constitution and the power-sharing arrangements between Kosovo Albanians and Kosovo Serbs, looking also at the usefulness of the Association of Serb Majority Municipalities, an arrangement aiming to settle the status of Kosovo Serbs, but has, however, raised concerns among both Kosovo Albanians and Kosovo Serbs.

Finally the conclusion of the book succinctly answers the question of why Kosovo's secession succeeded. This chapter summarizes the findings and demonstrates that Kosovo's secession succeeded through a long process that started in the early 1990s and continues to this day. It shows that this process involved significant changes in power dynamics at the state level—between Kosovo Serbs and Kosovo Albanians—and at the international level with the end of the Cold War and the subsequent imbalances it created in the respective alliances. Thus, events of the 1990s shaped the outcome of Kosovo's second secession in 2008. These events tied the West into an alliance with Kosovo, promoting its external recognition and ensuring its internal viability. Finally, concerns on regional security and stability, shared by recognizing and non-recognizing states alike, were of utmost importance in supporting Kosovo's internal viability, further contributing to Kosovo's successful secession.

## NOTES

1. September 2017.

2. Greece, Cyprus, Slovakia, Romania, and Spain.

## *Chapter One*

# **Defining Successful Secession**

More often than not studies on separatism take for granted that a secession has succeeded when the separatist entity has achieved international recognition, referring usually to attainment of UN membership. This view, however, is insufficient when studying unilateral secessions. Although not denying that UN membership indicates that a secession has succeeded, a secession can be successful even in the absence of UN membership, for as long as the secessionist entity has created a viable entity that de facto exists independently of the parent state.

This work compliments secession studies by adding a new perspective on when a unilateral secession can be regarded as successful. It shows that a secession is successful when the separatist entity has secured external support and achieved internal viability to such an extent that its separation from the parent state is irreversible. A successful secession, therefore, exhibits a second characteristic along with international recognition, that of internal viability. In the absence of international recognition, internal viability may turn a secession successful by providing a mode of operation independent from the parent state.

Although international recognition and internal viability can be independent from each other, there is still a strong interaction between them. International recognition increases the chances of internal viability by creating favorable conditions for the economic, institutional, and infrastructural development of the newly created state. In the absence of international recognition, most of the time a patron state—or more than one supporting state—provides for the survival of the secessionist entity. External support, therefore, either official or unofficial is of critical importance for the sustainability of the separatist entity and the success of its secession.

The chapter begins by briefly presenting the main concepts that surround studies on separatism, that is, what a state is, what a unilateral secession is, and how secession is exercised as a form of self-determination. Then it analyzes in detail the main concepts of international recognition and internal viability in respect to acquisition of statehood and shows their importance for the success of secession.

## SECESSION AND SELF-DETERMINATION

Secession is “the creation of a new state by the withdrawal of a territory and its population where that territory was previously part of an existing state” (Pavković and Radan 2007, 5). A unilateral secession presupposes that the parent state opposes this secession and withholds recognition of the new state. If the parent state grants recognition, secession is no more unilateral, but consensual. In addition, if the seceding entity seeks annexation to another state, instead of creating its own, then it falls under the category of irredenta (Ambrosio 2001, Horowitz 1985).

Thus, principal aim of a secession is the creation of a new state. This, however, has proven to be quite problematic in the post-World War II era. Before 1945, borders were still changeable; the beginning of the century saw the disintegration of the Ottoman and the Austro-Hungarian empires and after the end of World War I borders were redrawn and the map of Europe changed. This fluidity ended in the aftermath of World War II and the creation of the United Nations. The Charter, explicitly condemns any actions against the territorial integrity of existing states declaring that “all members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations” (UN Charter 1945). State borders are sacrosanct and their violation is a violation of international law.

This then would imply that secession is illegal under international law. However, this is not the case. Secession in general is neither legal nor illegal in international law, as there is no applicable law either in favor or against it (Crawford 2006, ICJ 2010). What complicates things further is the right to self-determination and the various interpretations this has taken. In regard to the creation of a new state as a form of exercise the right to self-determination the Declaration on Friendly Relations of 1970 states, among others, that the establishment of a sovereign and independent state constitutes a mode of implementing the right of self-determination by that people. Nevertheless, the same declaration continues by adding that this shall not be interpreted as authorizing or encouraging any action which would violate the territorial integrity or political unity of sovereign and independent state conducting



itself in compliance with the principle of equal rights and self-determination of peoples (Principle 5, UNGA 1970).

These clauses of the Declaration on Friendly Relations, in combination with the absence of an international law that regulates secession (Mancini 2008, Krueger 2014, Meester 2012, Roth 2011, Arp 2010, Crawford 2006) have given ground for a significantly diverse interpretation of legal documents referring to secession. Nevertheless, beyond the normative debate that has emerged about which entities should be granted statehood and under what conditions, state practice has been quite consistent. Worldwide acceptance in the form of UN membership is attributed to states emerging from decolonization respecting the *uti possidetis*<sup>1</sup> principle.

In cases of state dissolution, the colonial *uti possidetis* principle has been extended to apply to the administrative borders the former federal republics had in the former structure. This way internal frontiers had replaced external ones as the basis for territorial integrity (Caspersen 2008). After the end of the Cold War and the collapse of the communist regimes several new entities demanded statehood. Those that were constituent republics of the former state, such as the six constituent republics of Yugoslavia and the fifteen union republics of the former Soviet Union, gained UN membership. Nonetheless, some entities, such as Abkhazia and South Ossetia, which were autonomous republics or autonomous regions within constituent republics also declared independence. With the exception of Kosovo, which is currently<sup>2</sup> recognized by 114 UN member states, most of these cases gained limited, if any, recognition. Therefore, secession might not be illegal in international law, but unilateral secessions outside the agreed parameters of *uti possidetis juris* are treated as illegal entities that are not entitled to statehood.

## DEFINING THE STATE

The principal purpose of secession is the creation of a new state. However, there is no clear definition of what a state is (Dunleavy and O'Leary 1987, Pierson 2011). Jellinek (1914) argued that a state needs three elements in order to exist: territory, population, and government. Building his argument on those elements he described the state as “the organization, which is equipped with power to rule over a permanent population of a territory” (Jellinek 1914, 180). The Montevideo Convention (1933) comprised Jellinek's three elements and added one more, “the capacity to enter into relations with other states.” Thus, according to Article 1 of the Montevideo Convention “the state as a person of international law should possess the following qualifications: a) a permanent population; b) a defined territory; c) government; and d) capacity to enter into relations with the other states.”

The Montevideo Convention still constitutes a reference point as the most widely accepted legal definition of statehood (inter alia, Akpinarli 2010, Crawford 2006, Schoiswohl 2004). It does not go unchallenged, though. The “capacity to enter into relations with other states” as a constitutive element of statehood has been disputed (Kimminich and Hobe 2000, Malanczuk 1997). Scholars have argued that this capacity is a requirement of government or a requirement of independence or even a consequence of independence, but is not a constitutive element of a state (Akpınarli 2010, Dugard 2000). Likewise, Crawford maintained that the capacity to enter into relations with other states is rather a combination of the requirement of government and independence (Crawford 2006, 74), that is, that states are capable of entering into relations with other states and this characteristic is a consequence rather than a prerequisite of statehood (Giorgetti 2010). Moreover, the existence of the capacity to enter into relations with other states can be interpreted in different ways. For instance, for a newly established state this capacity could be interpreted as independence or recognition. For an existing state, though, the same criterion could be interpreted as an aspect of effective government (Akpınarli 2010).

In addition Article 3 of the Montevideo Convention affirms that the political existence of the state is independent of recognition by the other states. It also adds that even before recognition, the state has the right to defend its integrity and independence, to provide for its prosperity and consequently to organize itself as it sees fit. There are, thus, two manifestations of statehood: with or without recognition, that is, *de jure* and *de facto* statehood respectively. In cases of recognition, the success of secession is undeniable as the entity has achieved through recognition uncontested statehood and is accepted as equal by other sovereign states. A *de facto* state, on the other hand, as will be shown later, faces several challenges that compromise its function as a state and endanger its existence as a separate entity. Nevertheless, for as long as it maintains its independence from the parent state its secession can be deemed successful, as the primary goal of separation is accomplished.

## INTERNATIONAL RECOGNITION

Recognition and secession are closely associated. For more than a hundred years, recognition has provided the “*imprimatur* of statehood to seceding entities” (Dugard and Raič 2006, 110). Nowadays, worldwide recognition in the form of UN membership is an indicator of uncontested statehood.<sup>3</sup> Entrance into the UN demonstrates that the majority of the world’s sovereign states recognize the new state as an equal and it is subsequently protected by the Charter’s principles. Therefore, admission to the UN constitutes one of the priorities of seceding entities.

International recognition, though, is difficult to be achieved. Until the end of the Cold War the international community recognized only new states that emerged from decolonization and specifically what is called salt-water decolonization (inter alia, Hilpold 2009, Wolff and Rodt 2013, Cassese 1995). Former colonies had the right to independence from their colonial ruler and the right to uncontested statehood (Hilpold 2009). However, even in those cases the former colonial boundaries had to be respected (Danspeckgruber 2002). At the peak of decolonization, the Organization of African Unity (OAU) in its constitutive act also confirmed that one of the objectives of the Union is to “defend the sovereignty, territorial integrity and independence of its Member States” and to “promote peace, security, and stability on the continent.” Subsequently, in Articles 4(a) and 4(b) it is affirmed that the organization will act according to the principles of “sovereign equality and interdependence among Member States of the Union” and the “respect of borders existing on achievement of independence” (OAU 1963). The OAU, therefore, maintained the artificial borders of colonization and denied ethnic and tribal claimants the possibility of statehood, prohibiting them to pursue independence through unilateral acts.

Exception is Bangladesh (East Pakistan at the time) in 1971, which unilaterally seceded from (West) Pakistan, being the first successful secession outside the frame of decolonization. Bangladesh accusing Pakistan of severe discrimination and genocide against Bengalis proclaimed independence in 1971 (The Constitutional Assembly of Bangladesh 1971). After months of war which cost the lives of thousands of civilians and caused the displacement of millions, Bangladesh, supported militarily by India, managed to secede. Even Bangladesh, however, achieved uncontested statehood and was admitted in the UN only after it was recognized by Pakistan in 1974 (UNGA 1974).

### *International Recognition: Constitutive and Declaratory Approaches*

Granting diplomatic recognition may have serious implications, leading, on the one hand, to the official division of an existing state, and on the other hand to the acceptance of a new entity into the club of sovereign states (Paquin 2010). Recognition, hence, is both the confirmation of statehood and the act that transforms a secessionist entity into a state (Dugard and Raič 2006, Heraclides 1991). After its recognition, the newly created state has the opportunity to interact with other states and international organizations, while it is protected by the principles of non-intervention and territorial integrity (Caspersen 2011). Moreover, recognition allows access to markets, loans, capital investments, and resources necessary for the development of the economy (Mulaj 2011, Mihalkanin 2004). Finally, official documents and passports issued by recognized states are internationally accepted and

thus citizens have the opportunity of free movement and access to a globalized world. Therefore, the pursuit of recognition has been a priority for states newly created through secession (Lewis 2008).

However, there is still no uniform answer to the questions of when an entity has achieved statehood and what the role of international recognition in this outcome is. The debate on those issues revolves mainly around two theories of statehood: the constitutive and the declaratory theory. The former perceives recognition as “a necessary act before the recognized entity can enjoy an international personality,” while the latter sees it as “merely a political act recognizing a pre-existing state of affairs” (Dixon, McCorquodale, and Williams 2011, 158).

In the constitutive approach, the question of “whether or not an entity has become a state depends on the actions of others, that is, recognition of existing states” (Grant 1999, 2). In other words, a seceding entity turns into a state only when it achieves international recognition and is able to enter into relations with other states, meeting thus all four criteria of the Montevideo Convention. Support for this view comes from the Supreme Court of Canada’s ruling regarding the Quebec Case, declaring that

the ultimate success of a [unilateral] secession would depend on recognition by the international community, which is likely to consider the legality and legitimacy of secession having regard to, amongst other facts, the conduct of Quebec and Canada, in determining whether to grant or withhold recognition (Supreme Court of Canada 1998 para 155).

Thus, even where an attempt is unilateral, international recognition may create a new state. Nevertheless, the constitutive theory has certain drawbacks. First, the fact that one entity may be recognized by some states, but not by others, is an evident limitation. A partial recognition would mean that an entity is simultaneously regarded by some as a state and by others as a non-state (Dugard and Raič 2006) and accordingly a partially recognized state has and does not have an international personality (Brierly 1963, Crawford 2006). Second, the question that arises is how many recognitions are enough for a state to be created. Kosovo has currently been recognized by 114<sup>4</sup> out of 193 UN member states. The question is whether 114 recognitions are enough according to the constitutive theory for Kosovo to be considered a state, and if not, then where the threshold lies for the minimum of recognitions required.<sup>5</sup> Although this is a question that falls in the purview of international law to answer, it still may have political implications for Kosovo and for other entities seeking uncontested statehood.

In order to overcome the limitations of the constitutive theory, most contemporary scholars have accepted the declaratory approach (Watson 2008). In the declaratory approach statehood arises from the empirical existence of

sovereignty, not from juridical recognition of its creation by other states (Lynch 2002). When recognition is granted, other states merely acknowledge the pre-existing situation, that of the existence of a state (Vidmar 2012). A state therefore may exist without being recognized; a view that coincides with Jellinek's three-elements doctrine.

The declaratory view attributes statehood to the so-called *de facto states*. These are entities that have usually emerged through secession,<sup>6</sup> but have not achieved uncontested statehood as world states were unwilling to accept them. They perform the normal functions of a state over their territory and they have, to a large extent, the support of their population (Bahcheli, Bartmann, and Srebrnik 2004). Most of them have demonstrated viability and stability and function independently from the parent state (Kolstø and Blakkisrud 2008). Nevertheless, they are not *de jure* states, because they are not approved by the international order and are treated as non-existent in the international system. Thus, the declaratory theory also creates logical and practical inconsistencies. On the one hand, it alleges that a state can exist, even without recognition. On the other hand, unrecognized entities that have otherwise demonstrated sufficient state capabilities continue to be treated as illegal personalities (Bartmann 2004).

Contrary to the *de facto* states are the *quasi-states*. Jackson defines quasi-states or pseudo-states as entities that, although are recognized, "do not disclose the empirical constituents by which real states are ordinarily recognized" (Jackson 1987, 527). He claims that although they enjoy equal sovereignty with other states, they lack established legal and administrative institutions (Jackson 1987, 528-529). Therefore, they are insufficient, unstable, and incapable of protecting their sovereignty (Mihalkanin 2004) and they only came into existence because of changes in the world order during decolonization (Jackson 1990). As Pegg (1998) puts it "the quasi-state has recognition but lacks capabilities, whereas the *de facto* state has capabilities but lacks recognition" (Pegg 1998, 5). International recognition or its lack therefore has, therefore, both legal and political implications.

### *The Political Implications of International Recognition*

In addition to its legal effects, recognition is also a political act (McCorquodale 2005). Unrecognized states are non-existent in the eyes of the international community (Bartmann 2004). Their claims are perceived by most other states as domestic issues to be resolved within the parameters of the sovereign authority of the challenged state. Recognition, however, would legitimize their struggle, would guarantee protection for their inhabitants and prestige and power for their leaders (Caspersen 2013). In addition, the new state could enter into formal relations afterwards with other states and be accepted in international organizations, while it is also considerably easier

for a recognized entity to request financial support from the International Monetary Fund (IMF) and the World Bank (Paquin 2010).

Failure to gain widespread recognition has resulted in the failure of secessionist attempts; to name but a few, Republika Srpska Krajina (Detrez 2003), Republika Srpska (Zahar 2004), and Biafra (Radan 2008). The denial of recognition imposes serious constraints on the capacity of the entity to function as a modern state. The government has limited access to international financial institutions or direct bilateral assistance; trade is impeded by the lack of recognized regulatory controls; foreign investors are reluctant to invest in a territory whose very survival is in danger. The lack of international recognition, hence, undermines the viability of the *de facto* state.

However, there is also a paradox to be observed: there are entities that despite remaining unrecognized, such as Nagorno Karabakh and Transnistria, have existed for more than twenty years. Kolstø (2006) identifies at least five reasons that contribute to their viability, with them being strong internal strategies of nation-building, militarization of the society, weakness of the parent state itself, lack of involvement on the part of the international community, and support from an external patron. Rowland (2008) and Popescu (2006) emphasize the importance of a patron state, which provides the necessary goods and guarantees that these entities will not be re-annexed by force to the parent state. They mention, respectively, the examples of Nagorno-Karabakh and Transnistria, which are still not recognized by any country in the world, but Armenia and Russia provide for their security and sustainability. Nagorno-Karabakh, Transnistria, and other *de facto* states have managed to secede from their parent state and maintain their independence with the support of a patron state. This support is crucial as it guarantees the security of the seceding entities, against, for example, military aggression from the parent state and also provides necessary goods for everyday life, such as electricity, or financial support for infrastructure and education.

Nevertheless, a seceding entity has to obtain quality recognition in order to successfully advance its claims for statehood. Quality recognition means recognition by major powers, able to influence other states to accept the new entity; or as an interviewee put it, states able to move the game forward (Int. 6, UN Official). For centuries state recognition has been led and shaped by the great powers, whose official acceptance bore more weight than recognition by other states and actually, less powerful states have looked to the great powers for direction in this regard (Fabry 2010). When major powers recognized a separatist entity as an independent state, the smaller powers would follow, producing a “snowball effect” (Fawn and Mayall 1996, 209). This snowball effect would lead then to the necessary quantity of recognitions that a newly created state needs in order to be considered as a full state and join international organizations.

Currently, recognition by the United States seems to have a greater impact on the process of secession than recognition by any other state. An official recognition by the United States demonstrates publicly its support to the secessionist entity. An official US acceptance may persuade its allies to recognize the new entity, leading to a snowball of recognitions. The Kosovo case is an example of this; Kosovo's independence, championed and recognized by the United States, led in a short time to recognition by its allies. The argument strengthens when comparing Kosovo with other secessions with similar demands. Nagorno Karabakh, for example, while having survived because of the support Armenia provides, remains completely unrecognized. One of the reasons for that may be the absence of a hegemonic foreign power with enough influence to back it and make its secession a *fait accompli*, as it was in the case of Kosovo (Cheterian 2012). Other cases such as South Ossetia and Abkhazia do have the support of Russia, unquestionably a major power, but they have achieved only limited recognition. The difference between US and Russian recognition is perhaps that the former has a network of allies, whereas Russia is a powerful but currently isolated player in the international arena—on this particular issue at least. In the time of the former Soviet Union, however, the latter could convince in similar situations its allies to recognize entities seeking recognition. East Germany is an example of such a case which was recognized by the Soviet Union and its associates first, before achieving widespread recognition by the West and *de facto* recognition by West Germany (Childs 1977). For the moment, though, Russia's only allies that were willing to recognize South Ossetia and Abkhazia were Nicaragua and Venezuela<sup>7</sup> (Al Jazeera 2009, *New York Times* 2008).

## INTERNAL VIABILITY

Apart from being recognized, the new entity also needs to be viable for its secession to be successful. Internal viability is essential because without it the efforts at secession would most probably fail especially in absence of international recognition. If a state is not viable sooner or later insecurity and conflict will erupt with the most likely scenarios to be the following: if the entity is internationally unrecognized, or with limited recognition, it will probably return eventually to the control of the parent state; or, if the state has achieved international recognition it will most likely continue to exist as a failed state and a source of instability and lawlessness.

Although internal viability is a distinct characteristic for the success of secession, it is also inextricably connected with international support. To an extent internal viability derives from external support, because the latter creates favorable conditions for the economic, institutional, and infrastructural development of the seceding entity. There are also arguments in favor of

the view that evident internal viability and compliance with Western standards of democracy may lead to international recognition (Caspersen and Stansfield 2011, Caspersen 2012). This view was largely encouraged by the “standards before status” policy adopted for Kosovo. In 2003, the UN Interim Administration in Kosovo (UNMIK) introduced a number of key conditions that Kosovo had to meet before a decision on its final status could be made<sup>8</sup> (Ker-Lindsay and Economides 2012). Nonetheless, Kosovo’s recognition was based mainly on the “unusual combination of factors” including the historical context of the breakup of Yugoslavia, the human rights violations, and the extended period of UN administration (US Department of State 2008) rather than on the progress made in institutions building and meeting those standards.

Perhaps a seceding entity demonstrating evident internal viability and liberal democratic institutions is more likely to be recognized than one that does not fulfill those standards. Recalling, however, other cases that have established effective but unrecognized *de facto* states, it becomes evident that internal viability does not necessarily produce international recognition. For instance, since 1997 Somaliland has experienced a steady and increasing rate of stability and democratization (Schoiswohl 2004). While Somalia still finds itself in chaos, Somaliland has developed a growing economy and has established functional democratic institutions (Paquin 2010). Similarly, Nagorno-Karabakh has been characterized as “an oasis of good governance, respect for law and decency by comparison with most of the rest of the post-Soviet Union” (Gardner 2008). Finally, Taiwan, an “extreme success story” of *de facto* statehood (Kolstø 2006) has achieved remarkable economic development, being one of the major Asian traders and one of the world’s most significant producers of computer technology. In addition, in the early 1990s Taiwan made the transition to democracy, and the Guomindang’s monopoly on power ended completely in 1996 (Tien and Chu 1996). Nonetheless, despite their viability these entities are still either unrecognized or maintain few formal diplomatic relations.

### *Toward a Definition of Internal Viability*

There is no consensus in the literature on the characteristics that make a state viable or not. According to Emmanuel (1976, 3) and Bartmann (2004, 15) viability is “surviving and functioning in a changing environment.” In the case of a seceding entity, viability refers to the extent to which there is confidence in its ability to continue to exist and function in the foreseeable future. Still the question of what elements turn a seceding entity viable or unviable remains. The size, the economy, and the system of government are often discussed as parameters that would have a negative effect on the sustainability of a seceding entity and would lead to the failure of its attempt



(Sala-i-Martin 1998, Alesina 2003, Beran 1984, Caspersen and Stansfield 2011). Nevertheless, none of those factors predetermine that a seceding entity would be unviable as a state.

Beginning with the size of the state, admittedly a large state faces fewer challenges. A country with a large population and territory has more influence on events outside its frontiers, more prestige, and a larger element of choice in respect to the domestic policies it pursues (Vital 1967/2006). The cost of public goods is lower in larger countries, where more taxpayers can pay for them and also the size of the population affects the capacities of their markets. Furthermore, a larger country is less subject to foreign aggression (Alesina 2003).

However, there are also small states and microstates whose population does not exceed one million citizens, who despite their small size function normally in the international arena (Hey 2003, Clarke and Payne 1987). They are participants in international negotiation settings and they have also developed techniques in order to promote and defend their interests (Panke 2011). Significantly, their statehood is not contested because of their small size. The very existence of numerous microstates such as Luxembourg, Malta, and Cyprus, demonstrates that even a Lilliputian state can, not only be viable, but flourish.

Still, microstates are unable to defend themselves militarily and therefore they depend on alliances in order to increase security or enter into agreements with larger states (Wivel and Oest 2010, Wivel 2010). France provides forces in the Comoros, Djibouti, and Gabon, while the United States remains responsible for the defense of the Marshall Islands, Micronesia, and Palau (Bartmann 2002). Microstates maneuver, thus, within the international system to obtain help from others (Handel 2006). Through participation in international organizations and integration in international institutions they ensure their security (Wivel 2010). Thus, the most important condition for the security of small states is their ability to appeal to other states for support (Handel 2006). That means that the main danger for a small state's security is its exclusion from the international community. Hence, the fact that seceding entities are being isolated and treated as non-existent is what can render them not viable. Otherwise they would have the chance to lobby, urging other states to support them, guaranteeing their sovereignty and territorial integrity.

Moving on to the issue of economy, *de facto* states often have limited economic capacities. This leads scholars or opponents of secession to question their viability in the competitive international system (Sala-i-Martin 1998, Mulaj 2011). However, the fact that some of the *de facto* states are poor or have limited economic opportunities does not preclude a possible viable future as recognized states; in contrast, exactly because of their status as unrecognized entities, they suffer from certain financial difficulties. It is not uncommon for *de facto* states to be burdened with international embar-

goes and international isolation, practices that condemn them to poverty (Bartmann 2004). Unrecognized states are usually not entitled to loans from the World Bank, and their access to international and regional development programs is hampered. Foreign Direct Investment remains limited in unrecognized states. Investors are reluctant to invest in places whose very existence is uncertain. Furthermore, unrecognized states have restricted access to international markets. Many unrecognized states are heavily dependent on their patron states for the necessary imports and exports of goods (Gorgulu 2014). Due to isolation, lack of foreign investments and restricted access to international markets, unrecognized states are unable to benefit significantly from whatever natural resources they may have or make considerable use of any potential touristic capabilities (Mihalkanin 2004). Were sanctions and isolation lifted, *de facto* states would enjoy access to technical assistance, new sources of foreign investment, and access to global markets. Thus, poor *de facto* states that are sustained by their patron states may have had good chances of economic viability as recognized states, with the economic and trading benefits uncontested statehood produces.

Finally, the system of governance does not turn a state unviable. Although authoritarian regimes are often condemned for lack of respect of human rights and absence of liberties often provided in Western democracies, their viability remains indisputable. Saudi Arabia, China, and Russia are only a few of the world leading most stable states that are or are considered to be undemocratic. Moreover, although the West in the various state-building missions it has established around the world seeks to impose democratic systems of government, in terms of state viability, democracy does not appear to be more stable than autocracies. In contrast, countries with partial, newly established and transitional democracies are found to be more prone to state failure, while in several cases autocracies have demonstrated equal level of stability as well-established, full democracies (The State Failure Task Force 2000).<sup>9</sup> Therefore, the type of governance cannot be considered as a factor sufficient to render a state viable or not and consequently the viability of a secessionist entity cannot be precluded merely on the event that it may not possess democratic structures.

The question of what renders a state unviable remains then. Considerable research has been undertaken on failed states in recent years. While there is still no consensus on which states belong in this category (Yoo 2011), a brief review of those studies shows that there is an agreement on the basic characteristics of failed states. Lack of authority, breakdown of law, failure to control territory, resources, and population, inability to provide services, and extended violence are predominant elements of a collapsed state. Some scholars claim that state collapse and state failure are different categories, with collapsed states to be extreme cases of failed states (Rotberg 2003, Milliken and Krause 2002). Here, however, the terms are used interchange-

ably, as both failed and collapsed states are unviable for as long as they find themselves in this situation.

There are various definitions of failed states. According to Rotberg (2003) a failed state is unable to provide political goods to its citizens. He asserts that the primary political good is the security of its territory and the physical safety of the population. After security has been assured, the state can promote other political goods, such as participation in the political process, access to health care and education, construction of physical infrastructure, and establishment of institutional contexts within which citizens can pursue personal entrepreneurial goals.

Zartman (1995, 5) posits that a state has collapsed “when the basic functions of the state are no longer performed.” He says that a state is supposed to be a sovereign authority, an institution and the security guarantor of a populated territory. The weakening of one of those functions also impacts the others. According to Zartman a state finally collapses when governance, law, and order have broken down.

Krasner (2004), reaffirming Zartman and Rotberg, argues that a state has failed when its governance structures cannot exercise competent and constructive control over the country’s population and territory. In such states he observes “infrastructure deteriorates; corruption is widespread; borders are unregulated; gross domestic product is declining or stagnant; crime is rampant; and the national currency is not widely accepted” (Krasner 2004, 91). In addition, paramilitary organizations outside the control of the government operate within the state’s boundaries, while corrupted leaders take advantage of the widespread disorder to make a personal profit.

The State Failure Task Force (SFTF) defined state failure and state collapse as situations of severe political crisis, where the institutions of the central state can no longer maintain authority or political order beyond the capital city and sometimes not even there (The State Failure Task Force 1998, 1999, 2000). Admitting, however, that the instances in which central state authority collapsed for several years are too few for accurate statistical results, the SFTF included in their research four categories of severe political crisis that they also identified as state failure, which would be violent regime change, followed by ethnic war, revolutionary war and genocide (The State Failure Task Force 2000).

In summary, there is an agreement that a failed state cannot provide order (Herbst 1997). The government is unstable with little political authority and ability to impose the rule of law (King and Zeng 2001), while non-state actors control resources and population. Furthermore, the state cannot provide public goods, the economy has usually collapsed, physical infrastructure decays, and living standards rapidly decline (Yoo 2011). This lack of capacity frequently leads to extensive violence and human rights abuses, while it excludes the population from access to basic social services and condemns

the majority of the population to poverty (Krasner 2004). Hence, a state collapses when it is unable to control its territory, fails to uphold the monopoly of violence, and is incapable of providing the services for which it exists (Eriksen 2011).

Common ground between the abovementioned views is that whether a state has failed or not is to be decided according to its performance in certain aspects; a state is characterized as failed when it cannot carry out those tasks that belong to a state to fulfill. Nevertheless, “the failure of states to perform certain functions can be, but need not be, a symptom of state failure” (Wolff 2011, 960). A state may be unable or unwilling to provide its citizens or parts of its citizenry with public goods and social services, without the state necessarily to be a failed one. In India, for example, the state is unable to guarantee the security of parts of its population belonging to lower casts, especially its female and child population, while it fails to prosecute even known perpetrators of serious abuses (HRW 2012, 2014). Although the country suffers from poverty, corruption and inadequate public health care, not only it is not characterized as a failed state, but on the contrary, it is considered to be a rapidly emerging regional and global power.

Taking the above into consideration, a state has failed when it is unable to exert authority over its population and territory, that is, when it lacks empirical sovereignty on the territory for which it claims juridical sovereignty. In a reverse reading, thus, a state is viable for as long as its government is able to exert empirical sovereignty and ensure domestic order. Once this minimum requirement is fulfilled, internal viability may include the ability to provide social services or demonstrate democratic governance. In cases of secession this means that a seceding entity can produce a viable state, regardless of its size, economy and political system, if its government is able to exert control over its population and territory.

## CONCLUSION

There are different levels of success a secessionist attempt may have. The attainment of uncontested statehood is certainly the most successful outcome. Nevertheless, a separatist region that has achieved *de facto* statehood, that is, control over its territory and population, but has failed to obtain international recognition, still has succeeded in seceding. Some such cases exist for more than twenty years independently from their parent state. Also according to the declaratory theory of recognition these cases are considered to be states and their recognition would merely acknowledge this rather than create a state.

A factor that sustains these secessionist entities is the ability of the government to exert empirical sovereignty over the claimed territory; in other

words the internal viability these entities have achieved. Most of these de facto states also have an external patron that provides for their security and the basic goods necessary to support the population. This shows the importance of external support for the internal viability of the state. At the same time it also shows the importance of international recognition. Without international recognition separatist entities are treated as non-existent and their international interactions are limited to the countries that support them. International recognition would reduce the dependency on the patron state(s) and would give the seceding entity the opportunity to interact in the international system, with all this entails—access to markets, loans, foreign investment, political support, recognized documents for its citizens.

Taking the above into account, a secession is entirely successful when it results in the creation of a recognized and viable state. Recognized is a state that has achieved UN membership and viable is one that is able to provide order and effectively govern over its population and territory. Nevertheless, even separatist entities that have not attained uncontested statehood, but have managed to create viable de facto states, have achieved secession and a mode of function independent from the parent state. This leads to the conclusion that a secession can be deemed successful if it results in the creation of an entity that has achieved external recognition and internal viability to such an extent its secession is irreversible and the continuation of its existence is ensured.

## NOTES

1. The *uti possidetis juris* is defined as the “principle of the intangibility of frontiers inherited from colonization” (ICJ 1986). Thus, states emerging from decolonization are supposed to maintain the colonial administrative borders they had at the time of independence (Ratner 1996). Accordingly, when a territory gains independence, the new international boundaries shall be drawn along the administrative boundaries of the former structure (Watson 2008).

2. September 2017.

3. Exceptionally, East Germany first entered the UN and then achieved uncontested statehood. In 1973 West and East Germany entered the UN as two different states achieving, thus, international recognition. However, by the time of their acceptance the United States still refused to recognize East Germany, with the formal recognition and the establishment of diplomatic relations to follow a year later in 1974. In addition, France, the UK, and the United States refused to recognize East Berlin as the capital of East Germany and the latter entered the UN under an explicit relevant provision. Finally, the two Germanys, although they had normalized their relations through a series of agreements, never officially recognized each other (Childs 1977, Doenhoff 1993, Pfeil 2001).

4. September 2017.

5. This book has set the threshold at UN membership. Nevertheless, it acknowledges that there is no explicit connection between the constitutive theory and the UN criteria in the wider literature on state creation.

6. There are, though, de facto states that are not an outcome of secession, for example, Taiwan.

7. Nauru has also recognized South Ossetia and Abkhazia after receiving \$50 million in humanitarian aid from Russia (*The Guardian*, December 14, 2009). Nauru has also recognized Kosovo though, so it is questionable whether Nauru can be included in Russia's firm allies.

8. The reforms covered the following areas: the existence of functioning democratic institutions; enforcement of the rule of law; freedom of movement; sustainable returns of displaced persons and respect for the rights of communities; creation of a sustainable market economy; fair enforcement of property rights; dialogue with Belgrade; and, transformation of the Kosovo Protection Corps (KPC) in line with its mandate (UNMIK/PISG 2003).

9. In response to a request from Vice President Al Gore in 1994, the CIA established "The State Failure Task Force," a group of independent researchers who examine comprehensively the factors and forces that have affected the stability of the post-Cold War world. The Task Force's goal was to identify the factors or combinations of factors that distinguish states that failed from those, which averted crises over the last forty years. The study represents the first empirical effort to identify factors associated with state failure by examining a broad range of demographic, societal, economic, environmental, and political indicators influencing state stability. The Task Force found that three clusters of variables had significant correlation with subsequent state failures: (1) quality of life; (2) openness to international trade; and (3) the level of democracy.

## *Chapter Two*

# **Kosovo's First Declaration of Independence**

*1991*

Kosovo's craving for independence did not appear suddenly in 1991 when it first attempted to secede. It was a long process, the origins of which can be found in the early twentieth century when Kosovo was conquered by and included in Serbia. Beginning with the Balkan wars, this chapter presents the relations between Serbs and Albanians in Kosovo; relations which were largely characterized by a dynamic of domination and suppression that constantly shifted hands. It highlights the changes in the dynamics between the ethnic groups and also shows how these changes prepared the ground for the events that followed in the subsequent years. Then it explores the reasons why Kosovo's first attempt to secede in 1991 failed. This first attempt stands in sharp contrast to its second unilateral secession of 2008 which led to the creation of a still contested, but increasingly consolidated state.

The 1991 declaration of independence failed to attract international attention in the sense that it failed to achieve international recognition. With the exception of Albania no other state recognized it. This chapter explains the reasons for this deliberate neglect of Kosovo's demands at a time when the former Yugoslavia was disintegrating. It shows how Kosovo's status as an autonomous province of Serbia and the revocation of its autonomy in 1989 turned Kosovo into a Serbian internal matter, impeding its prospects for international acceptance.

In addition, the peaceful situation in Kosovo in contrast to the escalating violence in the northern republics undermined the success of its attempt. Due to absence of armed conflict, Kosovo did not seem to be a destabilizing

factor in the region, turning it to an issue of minor importance for Europe. At a time when Yugoslavia was violently falling apart, the raging Yugoslav wars had absorbed all international interest, hindering, instead of facilitating, Kosovo's struggle for independence in 1991.

Finally, the dramatic changes in the international system had a negative effect on the outcome of Kosovo's first declaration of independence. After the end of the Cold War Yugoslavia lost its strategic importance for the United States; thus when the crisis in the Balkans erupted the issue was left to an unprepared Europe to manage. The lack of adequate mechanisms combined with inexperience and inconsistent decisions led to the deliberate neglect of Kosovo's claims for independence and recognition.

## HISTORICAL CONTEXT OF THE CONFLICT IN KOSOVO

The origins of the contemporary conflict on Kosovo can be found in the beginning of the twentieth century and the Balkan wars (Ker-Lindsay 2009a). In the First Balkan War (1912-1913), Serbs, Montenegrins, Bulgarians, and Greeks sought independence from the Ottoman Empire. The Albanians, although they declared independence from Ottoman rule, did not join the Balkan League in the war against the Ottoman Empire (Dragnich and Todorovich 1984).

During the Balkan wars, Serbia occupied Kosovo, a region populated by diverse ethnic groups, with the majority being Albanians and the second largest group being Serbs. The Albanians considered themselves as the rightful inhabitants of the area due to the belief that their nation has lived in the area since ancient times (Mertus 1999). On the other hand, for Serbs, Kosovo was a fundamental part of their civilization and history. Kosovo was the heart of the Serbian Kingdom that flourished in the Byzantine times, and is perceived by Serbs to be the cradle of Serbian Orthodoxy. A number of monasteries dating back to those times are to be found in Kosovo, forming a crucial part of the historical narrative around the glory of Serbs in the region. In addition, the historic battle of 1389 against the Ottomans, which took place in Kosovo at the field of Blackbirds has become an intrinsic part of the mythology of the Serbian nation (Volkan 2006). Tied in with this is the belief that Serbs sacrificed their lives in this battle in order to save Europe from the Ottoman invasion. The defeat of the Serbian army in this battle signified the start of the fall of the Serbian Kingdom, leading eventually to its conquest by the Ottomans 70 years later. Thus, for Serbs, Kosovo seems to be both the connection with their glorious past and at the same time the place where the Serbian suffering began, it is where they lost their state and were subjugated to 500 years of Ottoman occupation. Therefore, the recapturing of Kosovo in the Balkan wars symbolized for Serbs the end of the suffering and the return



to independence and freedom. Udovički (2000) argues then that the Serb-Albanian conflict seems to stem from the firm conviction of both groups that “the land has been theirs for all time” (Udovički 2000, 317) and Ramet (2001) compares the Kosovo conflict with the Palestinian issue where “two ethnic communities with distinct languages and religious traditions lay claim to the same territory with competing historical arguments as evidence” (Ramet 2001, 174).

After the end of the first Balkan war, the new boundaries in the Balkans were decided in the London Peace Conference of 1913 and the subsequent treaties of London and Bucharest (The Treaty of London 1913, The Treaty of Bucharest 1913). In those treaties it was decided that Serbia's borders were to be extended and comprised the territory up to the region of Vardar Macedonia, including thus the area of present-day Kosovo.

After the inclusion of Kosovo in the Serbian state, the latter undertook several policies of both assimilation and exclusion. Examples of policies of assimilation involved the closing of Albanian schools combined with the obligatory attendance of Serbian schools and the penalization of the use of the Albanian language (Sørensen 2009, Prifti 1999, Dragnich and Todorovich 1984). Strategies of expulsion included a land reform program laying restrictions on Albanians to owning land areas barely sufficient to sustain a family, providing at the same time incentives for emigration to Turkey. Those who refused to leave willingly were often confronted with dispossession of their land and forced expulsions, while Serbia attempted a change of the demographic balance through the settlement of Serbs and other Slavs in Kosovo (Benson 2001, Bieber and Daskalovski 2003, Shtylla 1993).

This relationship of dominance was reversed during World War II when a large part of Kosovo's territory unified with Albania under Italian occupation. During the war, the Slavic population of the region was systematically expelled or exterminated and subsequently replaced by Albanians (Ker-Lindsay 2009a, Burg 1983).

Even so Kosovo was not to remain in Albania after the end of the war. Already in 1943, the wartime partisan parliament under Tito had decided that the post-war Yugoslavia would include six republics, with Kosovo and Vojvodina to be incorporated in the Republic of Serbia (Tepavac 2000). Other sources claim that the issue of Kosovo was then not sufficiently addressed and it was also implied by the Communist Party of Albania that Kosovo was to be unified with Albania in a post-war settlement (Pavlakovic and Ramet 2004). This, though, would also involve Albania's annexation to Yugoslavia as its seventh republic (Pavlowitch 2002, Ramet 2002, Auty 1969). However, by 1948 relations between Tito and Stalin had starkly deteriorated, leading to the exclusion of Yugoslavia from the Soviet bloc and the subsequent deterioration of relations with Albania. Thus, a settlement where Albania would be

incorporated into Yugoslavia was impossible and Kosovo remained in Serbia (Dragnich and Todorovich 1984, Benson 2001).

According to the Yugoslav constitution of 1946, Kosovo was an autonomous region (област) in Serbia, elevated to an autonomous province (покрајину) in the 1963 constitution, reaching its highest position in the federation with the 1974 constitutional amendment (Constitution of the Federative People's Republic of Yugoslavia 1946, The Constitution of the Socialist Federal Republic of Yugoslavia 1963, Constitution of the Socialist Federal Yugoslav Republic of Yugoslavia 1974). The 1974 Constitution guaranteed enhanced rights for the two autonomous provinces; Kosovo and Vojvodina acquired extensive self-government, fully controlling internal matters such as education, judiciary, taxation, and police in their respective provinces (ICJ 2009). Their full and equal participation was provided, as well as the right to approve or veto decisions concerning their provinces. They have been, therefore, referred to as virtual republics (inter alia, Dannreuther 2001, Mertus 1999), as they were republics "in all but name" (Int. 21, Peci).

Nevertheless, the Albanians of Yugoslavia had always been a nationality in the federal state, never obtaining the status of constituent nation. In Yugoslavia, the peoples or nations were those ethnic groups who had their nation-state inside the borders of the federation. Hence, for example, the Croats and the Slovenians were nations because their country was located within the borders of Yugoslavia. The Albanians, on the other hand, were a nationality as Albania, their nation-state, was outside the boundaries of Yugoslavia. Nationalities also included Bulgarians in Eastern Serbia, Italians on the Adriatic Coast, and Hungarians in Vojvodina (Detrez 2003).

Nationalities were not entitled to their own republics and as a result Kosovo never became an actual constituent republic of Yugoslavia. The reason why nationalities were not allowed to run their own republics was not adequately explained (Ramet 2002). A possible reason could be that nationalities having a nation-state outside the federal boundaries would be regarded to be more inclined to the idea to secede and join their fatherland (Detrez 2003).

The fact, however, that Albanians were not classed as a nation and Kosovo was not a republic also meant that Kosovo did not have the right to secession. Article 1 of the various Yugoslav constitutions stated that Yugoslavia is a federal state of peoples or nations (народа) who voluntarily associated and created a federation based on the principles of self-determination "including the right to secession," "укључујући право на отцепљење" (Constitution of the Federative People's Republic of Yugoslavia 1946). It is unclear from the definition whether nations or republics had the right to secede. However, the fact that only nations were entitled to republics probably leads to the conclusion that only republics had the right to secession.

This view was further strengthened by the concluding opinions of the Badinter Commission, which argued that only the constituent republics of Yugoslavia would be considered as its successor states, thus denying Kosovo this right.

Despite the enhanced rights Kosovars enjoyed in the former Yugoslavia after 1966<sup>1</sup> Kosovo Albanians still desired unification with Albania. As a non-Slavic population in a predominantly Slavic country they were regarded as “second class citizens” in the rest of Yugoslavia. They were considered to be more “primitive,” peasants or manual workers meant to do the toughest jobs (Udovički 2000, 319). Albanians themselves never felt part of this artificial construction of the state and believed that Kosovo was mistakenly a part of Yugoslavia (Int. 18, Civil society activist).

This sentiment of not belonging in Yugoslavia was further increased by the low standards of living Kosovo suffered. Although the province had been allocated special treatment under the Federate Fund for Crediting Economically Underdeveloped Republics and Provinces, 1965-1990, and was receiving generous grants and low-interest loans from the Federal Development Fund, the levels of development and employment remained extremely low in comparison with other regions in Yugoslavia with Kosovo to be the poorest region in the country (I.I.C.K. 2000).

Subsequently, tensions grew between Albanians and Slavs in general and with Serbs in particular. The richest republics of Slovenia and Croatia complained that their revenues and labor supported the population in the underdeveloped South, while less developed republics such as Bosnia and Herzegovina and Macedonia claimed that Kosovo received more than its fair share of federal funds (Judah 2000). Kosovo Serbs in particular accused Kosovo Albanians of indolence, maintaining that the younger generations of Albanians seemed reluctant to occupy themselves with traditional ways of production and agriculture and preferred studying instead of working (Guzina 2003, Poulton 1993). Kosovo Albanians, on the other hand, claimed that Serbs and Montenegrins although comprising a significantly lower percentage of the population occupied almost one third of the state run enterprises (Mertus 1999).

Tensions increased further when the Serbs started to leave Kosovo and relocate to other regions of Yugoslavia. Albanians asserted that Serbs were leaving because of the severe economic situation in the region. The Serbs, however, talked about an “Albanization” of Kosovo (Arhsien and Howells 1981, 427) and claimed that they were leaving because of the constant harassment and discrimination against them (Malcolm 1999).

Eventually the situation escalated and in 1981 only eleven months after Tito's death, Kosovo experienced one of the most violent demonstrations that had ever occurred in the province. The riots were triggered by a seemingly insignificant event in Pristina University's cafeteria when a student

furiously complained about the quality of the food (Binder 1981). Soon the event gained momentum and demonstrations erupted in Pristina with students demanding better conditions at the University's facilities (Rogel 2003). The demonstrations, having initially little to do with politics, rapidly grew into riots with protesters demanding the status of Republic for Kosovo with a minority of them asking for unification with Albania (Malcolm 1999, Mertus 1999). The demonstrations were suppressed, but resumed again some weeks later, joined by people of all professions, miner workers, teachers, civil servants, turning the riots into a mass revolt demanding the status of Republic. The demonstrations were brutally crushed, a state of emergency was declared, and Kosovo's borders were sealed (I.I.C.K. 2000).

The fierceness of the riots and the exaggerated way Serbia responded shed light onto some important concerns Belgrade seemed to have. First, it became apparent that Serbia still thought of Kosovo as a weak link in the federation, whose demands could potentially cause destabilization. Second, this full scale reaction, implied that if any other nationalist elements emerged elsewhere in the country, they would be likewise suppressed (Arhsien and Howells 1981).

The students' protests of 1981 were one of the first signs that Tito's structure had begun to collapse. Tito's ideal for Yugoslavia dictated that all citizens of the federal state were first and foremost Yugoslavs as defined by their citizenship, not by their nation or nationality. Consequently, any expression of nationalism was rejected in favor of a creation of a common Yugoslav identity by virtue that all were citizens of Yugoslavia. The demonstration of 1981, however, revealed the long suppressed nationalistic sentiments to such an extent that in hindsight some would claim that the disintegration of Yugoslavia started then in Kosovo (among others, Ints., 12 EU Diplomat, 29 Civil society activist). The 1981 riots were the first significant event of a turbulent decade that would ultimately end with the abolition of Kosovo's autonomy and the consequent open struggle for independence.

Other noteworthy events that followed in the subsequent years after the 1981 riots were the funeral of Alexandar Ranković, the Martinović case, the publication of the SANU Memorandum, and Milošević's visit to Kosovo in 1987. Each of these events either demonstrated the increase of Serbian nationalism in Kosovo or was used toward this end escalating the relations between the two ethnic groups.

To begin with, Ranković's funeral turned into a Serbian nationalist demonstration. Ranković was the former security chief who ruled Kosovo Albanians in a draconian manner. Thousands attended shouting his name, nationalistic slogans as well as slogans against Albanians clearly expressing long suppressed emotions against Kosovo Albanians (I.I.C.K. 2000).

Some years later the Martinović case followed. It was a case of an elderly man who was rushed to the hospital accusing two Albanians of severe sexual

abuse. It was a controversial incident that took national dimensions, was discussed in parliament, and was covered in full detail by the press and media (Kamm 1986). Although there have been indications that the injury might have been self-inflicted, the Martinović case was displayed as a demonstration of the oppression and mistreatment of Serbs in Kosovo (Kola 2003). This event gained importance in light of subsequent revelations of the Serbian Orthodox church that nuns had been constantly harassed and monasteries had been vandalized (Kamm 1986). Their claims were supported by evidence the church had compiled since 1969 offering also information about the number of Serbs leaving Kosovo, allegedly because of Albanian pressure (Judah 2000).

The press showed cases of Serbs leaving Kosovo and provided supporting data that this migration was due to mistreatment by Albanians. Blagojevic and Petrovic (1992), after conducting a survey in 1985-1986, claimed that the most frequently mentioned reason for emigration were “uncertainty, the lack of security and freedom, fear and the loss of hope” (1992, IV, 1b). In their publication they also cited statements such as the following:

I went out in front of them [Serbs leaving their homes] and said: ‘Stop, people, where are you going? Don’t leave your land, homes, Kosovo’—and the answer was always the same: ‘We can’t take the terror anymore, friend; they attack every day, women, children, old folks, property, they hit and swear; I’m leaving so that my children can live freely’ (Farmer from a Serbian village, age 80, cited in Blagojevic and Petrovic 1992, IV).

Before this survey was published, the Serbian Academy of Sciences and Arts had also publicized another document, known as the SANU<sup>2</sup> Memorandum, which victimized the Serbs not only in Kosovo but in other parts of Yugoslavia as well. The Memorandum denounced among others the “physical, political, legal, and cultural genocide of the Serbian population in Kosovo and Metohija” and the mistreatment of the Serbian people in other republics as well, while it urged Serbia to take action against those practices (Mihailovic and Krestic 1995, 128). The SANU Memorandum provocatively expressed the grievances of the Serb population and revealed their resentment that subsequently led to the rise of nationalism.

The significance of those events is manifold. They represented a situation in Kosovo where a Serbian minority was oppressed and terrorized by the Albanian majority, bringing to light a long suppressed frustration toward Albanians. This exasperation also led to the rise of Serbian nationalism in both Kosovo and Serbia, a phenomenon that had already started to increase in all Yugoslav republics in the post-Tito Yugoslav era. However, the report of the mistreatment of Serbs in Kosovo went beyond the borders of the province. The victimization of Serbs in Kosovo, added to the rise of Serbian

nationalism and provided the basis for Slobodan Milošević to enhance his political career (Ker-Lindsay 2009a).

In 1987, Ivan Stambolić, president of Serbia at the time, grasping the deteriorating situation and the possible effects of it, sent Milošević to Kosovo in an effort to abate tensions. Milošević met communist officials as scheduled, but Serb nationalists also demanded a meeting. Milošević agreed, although this was a violation of Yugoslavia's principal guideline condemning all kinds of manifestation of nationalism. During the meeting, the Serbs described incidents of everyday harassment taking place against them, until Milošević was informed that the police, composed mainly of ethnic Albanians, had violently restrained Serbs gathered outside. Milošević, interrupting the meeting, went outside to see what was happening, and then he uttered the infamous phrase "you will not be beaten again" (BBC 1995). The heated reaction of the Serbian media afterwards turned Milošević from a communist bureaucrat into a hero ready to defend the Serbian rights.

Milošević's alignment with the Serbs was a clear breach of the Yugoslav idea of Brotherhood and Unity. This upset both Yugoslav leaders and also the police, whose authority had been publicly undermined by a politician (Branson and Doder 1999). Nevertheless, Milošević was determined to continue with his ascent to power. Later the same year, he orchestrated Stambolić's removal from the presidency and in less than two years he occupied the post himself. Milošević's rise to the presidency of Serbia signified a new era for the Kosovo Albanians. Kosovo's autonomy was abolished one year later, introducing a time of mistreatment and oppression of the Albanian population (I.I.C.K. 2000).

## KOSOVO DECLARES INDEPENDENCE FOR THE FIRST TIME

Through a series of legal actions and constitutional changes in 1989-1990, including the amendment of Serbia's constitution in 1989, the Law on Special Circumstances, and the adoption of new Serbian Constitution in 1990, the Serbian regime practically put an end to Kosovo's autonomy. It is also said that in 1989 Kosovo's Assembly itself voted for its own disenfranchisement (Weller 2009). Federal forces and tanks encircled the Kosovo parliament, where its members under threat approved the abolition of Kosovo's autonomous status (Perritt 2010, Malcolm 1999).

Following the change in Kosovo's status new onerous laws regulating most aspects of everyday life were introduced in the province. Kosovars were asked to sign loyalty oaths to Serbia otherwise they would lose their jobs in state run institutions (Clark 2000). Even those who signed it, though, were eventually sacked and replaced by Serbs (Malcolm 1999). New property laws were imposed hindering Albanians from buying land or houses previ-

ously owned by Serbs (Judah 2000). Albanian-language education was banned, Serbian curricula were introduced in schools and Pristina University was turned into an exclusively Serbian institution (Kostovicova 2005, Clark 2000). Albanian press, television, and radio were closed down as well as most cultural institutions (I.I.C.K. 2000, Judah 2000). Albanians were dismissed from the Kosovo security forces and replaced by Serbs, turning the Kosovo police force into an exclusively Serbian unit. The police now, through harassment, arbitrary arrests, the use of violence, and even murder, subdued Albanians in a physical and psychological state of continuous suppression and fear (Ramet 1996, Cohen 1994).

What the abolition of autonomy also meant is that the province was stripped of its armed forces. Kosovo as an autonomous province had the right to have its own territorial defense forces in a similar way as the republics (Int. 21, Peci). In Kosovo, however, the territorial defense forces were in a process of disarmament, which had been completed when Kosovo's autonomy was revoked. Kosovo, hence, was overwhelmed by Serbian power, and did not have the military capacity to oppose it (Ints., 3 Qehaja, 2 Non-EU Diplomat). This led Kosovo Albanians to choose at that time the path of non-violent resistance against the Serbian regime, instead of that of an armed conflict.

In July 1990 the Serbian Parliament decided to terminate the work of the Assembly of Kosovo. Its members being literally locked out of the Assembly building gathered on the steps and issued a declaration of Kosovo as an "equal unit in Yugoslavia" (Assembly of Kosovo 1990b). It was not a proclamation of independence yet, but a declaration of Kosovo as a Republic within Yugoslavia and an elevation of Albanians to the status of a "nation" of Yugoslavia instead that of "nationality." In addition, they asserted their adherence to the Yugoslav constitution, renouncing the amendments of the Serbian constitution and annulling the decision of the Assembly of Kosovo of March 1989 on the approval of these amendments (Assembly of Kosovo 1990b). Almost two months later on September 7, 1990, they met again in Kaçanik and proclaimed the constitution of the Republic of Kosovo again as a federal unit of Yugoslavia (Assembly of Kosovo 1990a).

It was only after the Slovene and Croatian declarations of independence in June 1991 that the demand for a republic was changed to a demand for independence (I.I.C.K. 2000). In an attempt to attract international support and in order to show that their actions respected democratic standards and were in line with the principle of self-determination, Kosovo Albanians staged an independence referendum. It was self-organized, with polling stations set up in private houses (Int. 4, press editor). The referendum ran for four days, September 26-30, 1991. The report announced by the Central Board of the Parliament of the Republic of Kosovo for the Conducting of the Referendum claimed that out of the total number of citizens of Kosovo

eligible to vote (estimated to be 1,051,357 citizens), 914,802 voted in the Referendum, that is, the 87.01 percent. Out of this number, 99.87 percent, voted in favor, whereas approximately 13 percent did not participate in the referendum (Referendum 1991).

The referendum was carried out in the same way the parallel state would operate in the following years: in private houses, through collectively supported actions, but under the supervision of Serbia. Serbian troops were already deployed in the province at the time of the referendum. Nevertheless, they did not block the conduct of the referendum, as they would not crush the parallel state structures Kosovars were about to create. For as long as they would not put up armed resistance, Milošević had no reason to open a new front of war in the south; fully aware that his forces controlled Kosovo, he let the Kosovo Albanians proceed with their efforts (Sullivan 2004).

The Assembly met on October 19, 1991, proclaimed the independence of Kosovo and accordingly amended the constitution of Kaçanik to reflect the popular vote for independence (Pula 2004). A provisional government in exile was also established with Bujar Bukoshi as prime minister. In May 1992 the Coordinating Council organized elections for parliament and president of Kosovo, using private homes as polling stations (Clark 2000, I.I.C.K. 2000). In the meantime the government in exile applied to the European Community for recognition and intensified their diplomacy in the first few months of 1992, meeting high-level officials in Denmark, the Netherlands, Austria, Turkey, and the United States (Pula 2004).

Nonetheless, their efforts did not receive the same international acceptance as the declarations of independence of Slovenia and Croatia. The latter were recognized within a year by most world states and by May 1992 they were accepted into the United Nations. Kosovo was only recognized by Albania. In a statement issued in October 1991 by the People's Assembly, Albania declared that it recognized the "Republic of Kosova on the basis of freedom and complete equality with all other peoples." It was also recognized as legitimate the provisional government that was established under the direction of Bujar Bukoshi to lead Kosovo to elections in the following year. Albania also appealed to democratic international opinion and the member states of the Conference of Security and Cooperation in Europe to recognize and observe the legitimate will of the Kosovo Albanians, adding that this would be a "proof of their sincere engagement and without prejudice to a correct resolution of the Yugoslav crisis" (People's Assembly of Albania 1991). Nonetheless, the calls of Albania and Kosovo remained unanswered for the most part of the 1990s.



## WHY KOSOVO'S DEMANDS WERE DELIBERATELY IGNORED

There are various possible reasons explaining Kosovo's continuous and deliberate neglect by the international community. First, by the time Kosovo declared independence the war in the north of Yugoslavia had already begun. This, instead of benefiting Kosovo's cause, proved to be a drawback for its success. The wars in Slovenia and Croatia, with their spill-over into Bosnia monopolized the interest of the international community.<sup>3</sup> A war on the European continent in such proximity to the European Community (EC) member states brought waves of refugees in European capitals and produced fears about the social and economic consequences it would create. The primary purpose of the European powers, therefore, was the stabilization of the region as soon as possible (Clark 2000).

Furthermore, the presence of Serb populations in Croatia and Bosnia-Herzegovina escalated the already deteriorating situation in the northern borders of Yugoslavia through ever-growing nationalism. Eventually when the war erupted these were amongst the regions where the war raged most violently. The stabilization of the northern front, therefore, seemed to be the key for the stabilization of the region. Thus, there was a policy of appeasement toward Serbia and its leader Slobodan Milošević, trying to get him to the negotiating table in order to achieve peace.

Milošević, being then the most powerful man in Serbia and the main interlocutor in the negotiations, had insisted that Kosovo was a Serbian internal matter (Int. 6, UN Official). As such it was regarded as an issue that was completely under Serbia's authority to settle (inter alia, Ints. 5, 7, 12, EU Diplomats). Thus, should any state have recognized the independence of Kosovo, it would have been considered as a direct interference into Serbian affairs. Such an involvement would be unthinkable at a time when the right of the state was more important than human rights (Int. 14, EU Diplomat). Besides, with Milošević being the principal Serbian representative such an action would possibly disengage him from the peace process, minimizing the possibility for a solution to be found (Ker-Lindsay 2009b). Hence, the recognition of an independent Kosovo not only would not add anything to the efforts toward stabilization, but on the contrary it was considered quite possible to lead to further destabilization (Phillips 1996).

What is more, Kosovo was not considered to be an important and urgent factor of instability, as it remained peaceful during the first half of the decade. Its recognition, therefore, would possibly pose an additional risk for the regional instability that the international community was not prepared to meet. The absence of violence made Kosovars' demand for independence irrelevant for the international community whilst a terrible war was raging in other republics (Int. 3, Qehaja). Therefore, the international community was not really prepared to deal with the Kosovo Albanians, as at that time they

did not consider Kosovo to be of particular importance (Int. 19, EULEX Official). As a result with the exception of the “Christmas warning” in 1992 and its reiteration two months later little effort had been made to restrain Serbia’s oppression in Kosovo.<sup>4</sup>

Another sign of deliberate neglect by the international community and simultaneously one of the reasons why its first declaration of independence failed was the concluding opinions of the Badinter Commission. In 1991, the Arbitration Commission of the Conference on Yugoslavia, widely known as the Badinter Commission, was established with the aim to provide answers on major legal questions raised by the Yugoslav wars. The Badinter Commission resolved that Yugoslavia was in a process of dissolution and that its successor states would be its six republics, respecting the “existing frontiers at the time of independence (*uti possidetis juris*)” (Conference on Yugoslavia 1992, 1498). When the Commission was asked to provide an opinion regarding whether the Serbs in Croatia and Bosnia had the right to self-determination as one of the constituent peoples of Yugoslavia, the Commission repeated the adherence to the *uti possidetis* principle and the inviolability of first-order internal boundaries at the time of independence (Conference on Yugoslavia 1992, Opinion No. 2). It added also that minorities inside the republics should be recognized and their rights should be respected according to the norms of international law.

The Badinter Commission did not address the issue of Kosovo, demonstrating its apparent insignificance at that time. Nonetheless, it can be derived from the Commission’s opinion that Kosovo by not being a republic had no right to be regarded as one of the successor states of Yugoslavia (Hilpold 2009, Ker-Lindsay 2009b). In addition, by the time the Commission was founded, Milošević had already abolished the autonomous status of Kosovo depriving Kosovo of its previously elevated status as a virtual republic. Hence, Kosovo could not be considered to be entitled to secession since it was neither a republic, so as to be regarded as successor state according to the Badinter Commission, nor one of the constituent people of Yugoslavia, so as to be able to refer to the Yugoslav constitution.

Still, Kosovo’s previous peculiar status within the federation made Kosovo’s claim different from the claim of Serbs in Croatia and Bosnia-Herzegovina. The Serbs in those regions had never had the status Kosovans enjoyed in the federal institutions of Yugoslavia (Caspersen 2008). What is more, the Badinter Commission requested recognition of the minorities’ distinct identity within the Republics and respect of their rights, something that Serbia had already failed to honor.

On top of everything else, in 1991 the international system was amidst a transformational and transitional phase. The Cold War that regulated the global state of affairs for almost half a century was over. The initial feelings of euphoria and relief that the end of the Cold War produced were followed

by fears for the future (Evera 1991). Many questions concerning European security emerged; it was unclear whether the long peace in Europe would outlast the Cold War or whether the united Germany would be a threat once again. It was also uncertain whether the former communist states of Eastern Europe would achieve a successful transition to democracy, while the Soviet Union was dissolved into fifteen successor states. One of the most critical concerns the dissolution of USSR caused for the West was the dispersal of its nuclear arsenal to some of its successor states. Suddenly states such as Belarus, Ukraine, and Kazakhstan that “were in a complete state of political, economic, and military flux” found themselves possessing significant numbers of nuclear facilities and weaponry (Goodby 1993, 704). The US focus was thus redirected to ensure that nuclear and other weapons of mass destruction, materials, and technology would be prevented from proliferating further either to non-state actors or other states (Doder 1993, Goodby 1993).

With the end of the Cold War, Yugoslavia lost its strategic importance for the United States (Woodward 2000, Doder 1993, Ahrens 2007). The United States therefore turned its attention to settling open issues in the Middle East and Russia and left the European Community to deal with the crises in the Balkans. The EC responded willingly to this role. Perhaps it was considered as an opportunity for the EC to demonstrate its readiness for the imminent Maastricht Treaty and its plan to create a more integrated European Union (Guicherd 1993). In view of that, Luxembourg’s Foreign Minister, Jacques Poos declared that Europe “had a special responsibility to act in a crisis that threatened European stability” adding also that “this is the hour of Europe [ . . . ] it is not the hour of the Americans” (Riding 1991).

Despite grandiose statements, the EC proved unready to deal with the conflicts in the Balkans. To begin with, the EC, later EU, lacked the experience to manage a crisis of such scale as a coherent entity (Ahrens 2007). Germany and Italy, for example, supported the breakaway republics, while France, the United Kingdom, Spain, and Greece were more eager to support the unity of Yugoslavia (Steinberg 1992). Europe was largely divided, with each country acting according to its own interests as formulated by economic, political, and geopolitical reasons (Glaudić 2011).

Europe’s division became more evident with Germany’s early recognition of Slovenia and Croatia. This was one of the actions that both undermined the EC’s uniform approach and also weakened the EC’s trustworthiness as an objective mediator. The same can be said about the decision not to recognize the former Yugoslav Republic of Macedonia immediately along with Croatia and Slovenia because of Greek objections,<sup>5</sup> although it largely fulfilled the Badinter Commission’s criteria. What further undermined the EC’s coherence was the pro-Serbian inclination of France, the United Kingdom, and Greece, which obstructed the timely and effective enforcement of measures against it. Another reason for the delayed and to some extent futile adoption

of measures against Belgrade was that European countries were unwilling to alienate Russia, a traditional ally of Serbia. Finally, states in proximity or states which were significant recipients of refugees such as Italy, Greece, and Germany dealt with the crisis accordingly, seeking also to minimize its impact on their own countries (Guicherd 1993).

What is more, the EC/EU lacked the necessary mechanisms to handle such crises. Concepts of preventive deployment of military force or responsibility to protect were not yet developed as to be applied on Yugoslavia (Ahrens 2007). Various attempts had been made to stabilize the situation and create conditions for peace, including series of peace conferences, deployment of unarmed missions to report on the human rights situation on the ground, or to observe compliance with agreed measures. Even then, however, the implementation of those actions had often been delayed and by the time they had been introduced, they were no longer relevant (Guicherd 1993). All in all, the international reaction was only rarely preventive and most of the time it followed, rather than led developments on the ground (Ahrens 2007).

The issue of Kosovo could have been a successful example of preventive action. Some of the negotiators, realizing that Kosovo was a part of the crisis directly connected with the stability of the region had proposed and insisted on Kosovo being included in the peace processes (Int. 23, Non-EU Diplomat). Unfortunately, the EC/EU was unable to deal with more than one conflict at the time. Lack of experience and consistency combined with personnel and budget fatigue and the desire to settle or conceal the problems as soon as possible made the Kosovo issue one too much to deal with (Ahrens 2007). Hence, with so many open matters requiring urgent settlement Kosovo was not a priority for the international community and it was excluded from the procedures until it exploded in the second half of the decade.

## CONCLUSION

Kosovo's interethnic relations have been characterized by a changeable relation of domination and suppression between Serbs and Albanians. After the end of the Balkan wars Serbs ruled over Kosovo until World War II, when control passed to the Albanians. After the inclusion of Kosovo in Yugoslavia it was again the Serbs' turn to dominate until 1966 when Ranković was removed from office. After the 1974 constitutional amendment it was the Serbs who declared themselves oppressed by the Albanian majority. Following Tito's death, the idea of Brotherhood and Unity faded; nationalism replaced it and previous frustrations reached the surface on both sides. Finally the situation in Yugoslavia erupted in 1991, Kosovo declared independence along with the Yugoslav republics. However, its declaration of independence

was deliberately neglected by the international community and Kosovo was regarded as a Serbian internal matter.

The lack of violence was one of the reasons why Kosovo's first attempt to secede failed. Due to the absence of armed conflict and potential of spill-over of war, Kosovo was not considered to be a major factor of instability. Hence, it was not an issue urgent to settle at a time when a violent war had already broken out in other republics. The Yugoslav wars had absorbed the time and energy of the European powers, having as chief priority the stabilization of the region as soon as possible. Kosovo, by neither being at war, nor geographically in such close proximity to the European powers, was not on their priority list.

Considering also that Milošević had insisted that Kosovo was an internal Serbian matter, its international recognition might have disengaged the Serbian leader from the peace process, and therefore, carried a risk. In addition, the Badinter Commission had resolved that Yugoslavia was a state in dissolution and only the constituent republics were to be recognized as successor states. Kosovo as an autonomous province of Serbia would continue, thus, to be considered an internal matter of a sovereign state. As Kosovo was both peaceful and regarded as an exclusively Serbian issue, its recognition not only would not have added to the European Community's efforts for stabilization of the region, but it would have further deteriorated the situation, reducing the possibilities for a settlement.

Moreover, in 1991 major changes were taking place in the international system. With the end of the Cold War, Yugoslavia lost its strategic importance and the US focus redirected toward its renewed relations with Moscow and the developments in the Middle East. Therefore, Europe had been called to deal with the crises in the Balkans. Europe possessed neither the experience nor adequate conflict management mechanisms and was overwhelmed by the magnitude of the Balkan wars. In addition, it was divided, with each member supporting actions that promoted individual interests. The European Community, being unable to deal with all issues at once, set the establishment of peace and stability in the region as a leading goal for action. Thus, again Kosovo by not being engaged in armed conflict, was not seen as a cause of instability and hence not an issue imperative to address.

Thus, Kosovo's first attempt to secede failed because of reasons being found at four different levels: at the local level, being Kosovo, at the state level, Serbia, at the regional level, thus, the Balkans, and at the global level. Locally, Kosovo was at peace, thus, due to lack of violence was not considered to be a factor of instability. At the state level, Milošević was one of the most powerful leaders of the former Yugoslav states and a key to regional stability. The international community prioritized an agreement with him over supporting Kosovo's independence and risking disengaging Serbia from the peace processes for the termination of the Yugoslav wars. Then at the

regional level the Yugoslav wars had begun. Therefore, again the priority was to establish peace in the parts of Yugoslavia that were at war instead of endangering opening a new front in Kosovo. Finally, at the global level the end of the Cold War and the loss of Yugoslavia's strategic interest for the United States, called for Europe to deal with the Yugoslav wars. The EC/EU, unready and inexperienced, was unable to include the settlement of the issue of Kosovo on the agenda.

## NOTES

1. During 1953–1966 Alexander Ranković had been Minister of Internal Affairs of Yugoslavia and also head of the secret police. During his time in office the ethnic Albanians had been harshly treated, this having as a result the migration of significant proportion of their population to Turkey. After Ranković was dismissed in 1966, a general change of attitude from the federal state towards Albanians followed. Albanians gradually began to enjoy more rights, the University of Pristina was founded, as well as other institutes for Albanian language, cultural ties between Albania and Kosovo were permitted, and the influx of Albanian books was possible (Daskalovski 2003, Nicolíć 2003, Petrović and Stefanović 2010, Mertus 1999).

2. The acronym SANU derives from the Serbian Srpska Akademija Nauka i Umetnosti (Serbian Academy of Sciences and Arts).

3. For the Yugoslav wars: Misha (1996), Denitch (1994), Pavković (2000), Silber and Little (1995), Stokes et al. (1996), Liotta (2001), Glaudić (2011).

4. US President George H. W. Bush warned Slobodan Milosevic on December 25, 1992, that “in the event of conflict in Kosovo caused by Serbian action, the United States will be prepared to employ military force against the Serbians in Kosovo and in Serbia proper.” In February 1993 Secretary of State of the new elected Clinton administration Warren Christopher reaffirmed the US commitment by stating “we remain prepared to respond against the Serbians in the event of a conflict in Kosovo caused by Serbian action” (*New York Times Archives* 1999).

5. Greece refused to recognize the FYR Macedonia under its constitutional name—Republic of Macedonia—initiating a still ongoing name dispute. Greece considers the use of the term Macedonia without any geographical or other qualifier as usurpation of Greek history and historical symbols mostly referring to the Vergina Sun and Alexander the Great. In addition Macedonia as geographical region of the Balkans is divided among four states—Greece, Bulgaria, FYR Macedonia, and Albania—and thus the use of the name Macedonia exclusively by one state is considered to entail expansionist claims over the other three countries. Finally, the dispute is exacerbated by the fact that approximately two and half million ethnic Greeks living in the Greek part of Macedonia identify themselves as Macedonians. Hence, the use of the name Macedonia and the ethnic attribute Macedonians without any other qualifier, for example, Slav Macedonians, is regarded by the Greek Macedonians as rejection and usurpation of their cultural identity.

## *Chapter Three*

# **The Turn of the Tide**

In 1991, when Kosovo declared independence for the first time it was treated as an insignificant issue and an internal Serbian matter. In contrast, by 1999 Kosovo had gained such importance that triggered the military intervention from NATO without the consent of the UN Security Council. Although the purpose of the NATO intervention was not the creation of an independent Kosovo, it played a catalytic role toward this end. Numerous events taking place throughout the decade changed the dynamic between Kosovo and Serbia and turned Kosovo from a purely internal matter into a global issue that mobilized the Western alliance to conduct a 78-day air-offensive against a sovereign state, actively initiating the process of Kosovo's secession.

A number of factors may have had an effect on Kosovo's second and far more successful attempt to secede beginning with Ibrahim Rugova's non-violent approach and its influence on future events. Although Rugova's strategy failed to achieve independence, it certainly produced a number of positive outcomes, legitimizing Kosovo's claims and making known the human rights violations that Serbia was committing in Kosovo. With the benefit of hindsight, even Rugova's failure to bring Kosovo's demands to the Dayton negotiation table was positive for Kosovo's future secession, as Kosovo could hardly have achieved independence then. In addition, Kosovo's exclusion from the Dayton accords led to the emergence of the Kosovo Liberation Army (Ushtria Çlirimtare e Kosovës, UÇK), a radical movement that pursued independence by violent means. The escalation of violence attracted the attention of the international community, leading eventually to NATO's air campaign and the consequent de facto separation from Serbia.

Another factor was Milošević's actions and their effect on the turn of events. In the early 1990s Milošević was the main representative of the Serbian side and was seen by the international community as the pioneer of

the Dayton peace agreement. By the second half of the decade, however, he was perceived as an untrustworthy interlocutor. This change was largely due to the revelation of the extent of the atrocities Serbian forces had committed during the Yugoslav wars and the strongly suspected involvement of Milošević in those actions. Frustration and distrust against Milošević was also exacerbated by his erratic and dismissive behavior toward international representatives. This distrust, combined with the previous experiences from the Yugoslav wars and the exaggerated retaliation of the Serbian forces against KLA attacks in Kosovo, reminded the international community of their shortcomings in Bosnia and also provided them with the moral high ground to actively intervene in Kosovo. Thus, ironically Milošević's leadership positively affected the outcome of Kosovo's attempt to secede.

Finally, the Rambouillet negotiations and the subsequent military intervention of NATO had a decisive effect on Kosovo's secession. The failure of the Rambouillet accords led to the NATO bombardment of the Federal Republic of Yugoslavia, including Kosovo. The NATO intervention, followed by the establishment of the UN administration in Kosovo, was the first step toward the creation of an independent Kosovo.<sup>1</sup>

### THE TIME OF NON-VIOLENT RESISTANCE

Since the abolition of the autonomous status of the province, the Kosovo Albanians established a "parallel state" within the Serbian one, called also "parallel society" or "shadow state." The Kosovar parallel state consisted of a loose conglomeration of educational and cultural institutions, health services, social assistance networks, political parties, local financial councils, and a government-in-exile. It was not a state in the traditional sense, but a national movement that sought to preserve the basic framework of a state inherited from the period of autonomy, defy the Serbian state's authority by demonstrating a collective political will to protest through civil disobedience, and elicit international support for the goal of secession (Pula 2004, 797-798).

The leader of the self-proclaimed Republic of Kosovo was President Ibrahim Rugova and his party, the Democratic League of Kosovo (LDK, Lidhja Demokratike e Kosovës). Rugova imposed a strategy of non-violent resistance against Serbian oppression, convincing the Kosovo Albanians that this would successfully lead to the fulfillment of their demands and the independence of Kosovo. Rugova's strategy for Kosovo was a threefold one. As Edita Tahiri, the LDK Foreign Minister at that time, said in an interview "first, we wanted to ensure cultural survival and prevent ethnic cleansing. Second, we wanted to create a parallel system and build an independent



democratic state. Third, we wanted to win international support for independence” (Tahiri, cited in Stephan 2006, 72).

In order to ensure cultural survival and prevent ethnic cleansing Rugova knew that any violent revolt should be prevented (Malcolm 1999). Seeing the events in other parts of Yugoslavia and especially in Bosnia, Rugova expected that the Serbian regime would engage in mass expulsion or extermination of the Albanian population when a pretext was given (Dannreuther 2001). Therefore, any action that could provoke Serbian retaliation was to be avoided. Allegedly, “whenever a violent episode involving Serbian police occurred, members of the Kosovar Youth Parliament and the Cou to document the incident and explain to fellow Albanians the rationale behind maintaining non-violent discipline” (Stephan 2006, 73).

This commitment to non-violence brought the plaudits of the international community. Rugova succeeded in placing Kosovo on the international agenda and being recognized as the leader of Kosovo’s Albanians. However, the international community endorsing a peaceful approach was one matter and supporting Kosovo’s independence was quite another. Although Rugova was very popular internationally he was not taken as seriously as other leaders who were more successful in lobbying for their goals and thus the Albanian cause was not as strongly understood or supported (Int. 7, EU Diplomat). The international community, although sympathetic, had repeatedly affirmed that further secessionism would not be encouraged and adhered to its position that an independent Kosovo would not be supported (Caplan 1998, Cottey 2009).

Rugova’s government was successful in establishing a parallel Kosovo Albanian society. Kosovo Albanians rejected every association with Serbian institutions, boycotted Serbian elections (Vrieze 1995), and certainly avoided in every way fulfilling their mandatory military service in the Yugoslav and subsequently Serbian army<sup>2</sup> (Int. 18, Civil society activist). In order to fill the gap of services this boycott had produced, the LDK government created parallel structures extending to most aspects of everyday life, including education, health care, transportation, and the market and banking system (Mertus 2009, I.I.C.K. 2000). This parallel structure, running under the oppression of the Serbian apparatus, was fairly well-organized and well-functioning. The effectiveness of the parallel society in a wide range of competencies demonstrated a significant level of administrative capacities, showing in a way that Kosovo had the capability to create a viable state.

The greatest success of the parallel state was the education system (Kostovicova 1999). When, in 1990, the Serbian administration banned teaching in Albanian and demanded that schools introduce the Serbian curriculum, most of the Albanian teachers were removed and replaced by Serbs. Similarly, the University of Pristina became fully Serbian and tutors were instructed to lecture in Serbian (Bellamy 2000a). The Albanians rejected and opposed

those measures by creating a parallel system of education in which the dismissed teachers delivered classes, in private houses, right up to university courses (Int. 4, press editor).

Another aspect that the parallel society covered was the health care system. Reportedly in the early 1990s there were repeatedly incidents of poisoning in the schools through the ventilation system (Int. 18, Civil society activist). Although it still remains uncertain whether the poisoning occurred or not, the mass hysteria that was created filled Albanians with suspicion towards Serbian health care facilities (Mertus 1999). As a result, the Mother Teresa Society was founded, designed to provide humanitarian assistance and at least basic health care services for Albanians who were reluctant to visit the Serb-dominated hospitals (I.I.C.K. 2000, Clark 2000). Nonetheless, neither the Mother Teresa Society nor other clinics established at private houses were able to deal with complicated incidents, where more sophisticated equipment was required. Thus, inevitably Albanians had to use state hospitals in those cases, which explains also why Albanian doctors, who kept their jobs in Serbian facilities were not rejected by wider society (Judah 2000c).

Furthermore, some cultural organizations such as the Kosovar Academy of Arts and Sciences or the Institute of Albanology kept operating for some time even without funding. Similarly, the Institute of History and the Institute of Language and Literature continued to function and to publish, though less often than they used to. Some sports events were also organized, and finally after the closing of the Radio Television Pristina and the daily newspaper *Rilindja*, Kosovars turned the farmers' magazine *Bujku* and the youth magazine *Zëri i Rinisë* into a daily and weekly newspaper respectively (Pula 2004).

Finally, after the mass dismissal from state institutions, unemployed Albanians sought alternative forms of income, mainly starting their own private businesses. Along with restaurants, shops, and tourist agencies,

the fired Albanian workers, ex-civil servants and former policemen registered several hundred taxis, vans, lorries and minibuses (twice as many began operating without registration) taking over city and intercity lines. Their initiative made transport so cheap and efficient that the main state companies faced bankruptcy and after six months, Belgrade banned alternative transport and taxis (Maliqi cited in I.I.C.K. 2000, 47).

The parallel society displayed a considerable level of efficiency in several areas, including education, health care, transportation, and culture, with those being services often provided by state institutions. In order to raise funds to cover those needs, the LDK imposed taxes on all employed Kosovar citizens and the diaspora. Although the amount expected to be offered varied according to type of occupation, the rate was generally set at 3 percent of the

income (Babuna 2000). Non-compliance was very low, with the majority of Kosovars contributing according to their capacities, and the diaspora often donating more than the minimum required (I.I.C.K. 2000).

Despite the success of the parallel system, it still operated under the supervision and with the tolerance of the Serbian state. For example, as regards the education system, one interviewee remembered that although the Serb troops knew where their classrooms were, they rarely intervened. They seldom obstructed the university classes and they did not touch the high schools (Int. 18, Civil society activist). Thus, for as long as they did not pose a threat to the Serbian regime, Milošević allowed Kosovars to continue with their parallel structures.

Nonetheless, Kosovo was in a grim situation with several incidents of violence against Albanians (HRW 1994). Arbitrary raids into houses by Serbian police in the middle of the night with the pretext of searching for weapons were reported as a frequent phenomenon. Those raids, accompanied by destruction of property, apart from terrorizing, were also humiliating with use of excessive violence against any member of the household regardless of age or gender often in front of the family (Amnesty International 1994).

Even under these circumstances the Kosovo Albanians adhered to non-violent resistance. However, two parallel societies were created, one Kosovo Serbian and one Kosovo Albanian (Ramet 1996). In the former Yugoslavia the population reportedly lived in ethnically mixed neighborhoods and memories of good neighboring relations between the two ethnic groups during the Yugoslav times are mentioned today. Since the early 1990s, though, the population has been divided according to ethnicity. In rural areas ethnically homogenous neighborhoods were created, while in larger urban areas, where physical separation was more difficult, division took other forms. For instance the same street would not be used by both Albanians and Serbs or there were specific markets, cafés, and bars for each ethnic group (Ints. 10, 18 Civil society activists).

Thus, the situation in Kosovo was a bizarre one in the early years of the 1990s. On the one hand, Kosovo Albanians were allowed, amidst human rights violations, harassment, suppression, or the constant threat of those, to continue their parallel society. On the other hand, Kosovo Albanians stoically accepted this subjugation, being convinced by Rugova that this non-violent approach would lead to independence (Bekaj 2010). However, Rugova's peaceful approach failed to produce the expected results. Kosovo demands were deliberately ignored by the international community, while Kosovo representatives were often invited only as observers to the various peace negotiations and conferences aiming to settle the Yugoslav wars (Evangelista 2015).

Rugova's peaceful approach had, nonetheless, an important role to play in the process of Kosovo's secession. When eventually the international com-

munity noticed Kosovo claims in the second half of the decade, the Kosovo Albanians were presented as helpless victims that needed protection from their oppressors (Clinton 1999). Mobilizing and using the support of public opinion, NATO found the moral justification to conduct an air campaign against a sovereign state without the consent of the UN Security Council (Solana 1999). Finally, when Kosovo declared independence for the second time in 2008 some of the recognizing states argued that Kosovo's secession was the only viable solution for Kosovo, claiming that due to the grave human rights violations Kosovo Albanians had suffered under Serbian rule in the past, a return to Belgrade's rule would be impossible (Gray-Block 2009). So, perhaps Rugova's non-violent approach failed to present immediate successful results. Nevertheless, the adherence to non-violent resistance against the human rights violations committed by Serbia and its ruler Milošević legitimized Kosovo's demands for independence constituting an important step toward Kosovo's successful secession in 2008.

Finally, the human rights violations and the commitment to the creation and preservation of the parallel society strengthened the bonds between the members of the Albanian society. The Albanians had always been a society with strong family ties. All important matters were discussed and solved within the extended family, in the presence of the elders of the community (Sörensen 2009, Dragnich and Todorovich 1984). In the 1990s the segregation and the human rights violations strengthened those relationships even further, increasing their solidarity and commitment to a common cause, regardless, whether this was peaceful resistance or armed conflict. This bond of solidarity sustained their parallel system for almost a decade and later played a crucial role both for the conduct of guerrilla warfare on the ground and for the diaspora's international lobbying, with all these factors combined contributing to Kosovo's eventual successful secession.

### THE KLA EMERGES

The emergence of the KLA and the turn of the Kosovo Albanians to a violent approach to pursue their demands for independence was a significant factor for Kosovo's successful secession. The escalation of violence in Kosovo shortly after the end of the Yugoslav wars threatened to destabilize the fragile peace in the region. The international community, having the experience of the Yugoslav wars and the memories of its shortcomings in Bosnia still decided to intervene more actively this time. The primary contribution of the KLA in Kosovo's successful secession is that through the escalation of violence, the international community finally noticed and addressed the Kosovo issue, intervening in its favor.

During the years of the Yugoslav wars there have been repeated declarations and actions from the international community affirming that further secessionism in the Balkans would not be supported, and that the Kosovo issue had to be settled as an internal matter of Serbia. According to the opinions of the Arbitration Commission of the Conference of Yugoslavia, Kosovo was not entitled to independent statehood and at the London Conference in 1992 the Kosovar delegation was treated as observers (Rogel 2003). Similarly, three years later in Dayton, where the main objective of the negotiations was to terminate the war in Bosnia, Kosovo was off the agenda (inter alia, Perritt 2010, Dannreuther 2001, Bellamy 2002).

Given the constant rejections Kosovo had received since 1991, its exclusion from the Dayton accords should have been expected. Surprisingly however, the Kosovars were convinced by Rugova's four-year rhetoric that the international community would eventually take their concerns into account and sustained unfounded hopes that their problems would finally be addressed (Bekaj 2010, Wheeler 2000b). The fact that the international community once again disregarded their claims shocked the Kosovo Albanians and led them to the realization that peaceful resistance led nowhere (Guzina 2003, O'Neill 2002).

After Dayton, Rugova's non-violent approach was marginalized in favor of a more radical one (Wheeler 2000b). The KLA emerged; an armed, guerrilla group, which initially pledged unification with Albania (Ints. 4, press editor, 15, Kursani). The origins of the KLA can be traced back to the beginning of the 1990s, when the People's Movement of Kosovo (Lëvizja Popullore e Kosovës, LPK) was established and created the KLA as its army. However, at a time when the Kosovars believed that non-violent resistance was the key to independence and were also satisfied that they could relatively live peacefully when compared to the situation in Bosnia, KLA's violent tactics were unpopular, as they provoked brutal reprisals by the Serbian police. Consequently, the KLA remained for the first part of the decade a small, unorganized group.

However, everything changed with Dayton and the international community's subsequent actions. The UN lifted the sanctions against the Federal Republic of Yugoslavia and the latter was formally recognized, including Kosovo (Kubo 2010, I.I.C.K. 2000). At this point, any intention to exercise pressure on Serbia regarding Kosovo seemed to have evaporated. This was the turning point for Kosovars as they realized that if there was not a fight, then Kosovo would be forgotten (Int. 11, Malazogu).

Thus, the military movement started to be more organized both inside and outside the borders of Kosovo. Once again, the role of the diaspora proved invaluable. Kosovo Albanians who promoted armed struggle and worked in the West, especially in Switzerland and Germany, had founded as early as in 1993 the "Homeland Calling Fund" aiming to raise money to support armed

struggle (Kubo 2010). It received limited contributions until 1996, as the majority of the diaspora supported Rugova's fund for the maintenance of the parallel society. After 1996, however, the support largely shifted from Rugova's fund to the KLA's one. Nevertheless, raising funds, although necessary, was not sufficient, as an army also needs weaponry and recruits.

The most widely cited position is that the problem of armaments was solved in 1997, when the economic and political institutions of neighboring Albania collapsed, leading the country into chaos. Hundreds of thousands of Albanians had invested in fraudulent pyramid banking schemes that eventually became unsustainable.<sup>3</sup> Their inevitable collapse led to extensive riots, where approximately 2,000 people were killed. The government was overthrown and the country descended into anarchy, with the army and police deserting their posts (Jarvis 2000, Judah 2000a). Army warehouses were looted and the black market was flooded with hundreds of thousands of arms and ammunition that the KLA hurried to purchase, effectively solving the problem of the lack of weaponry (Judah 2000b, I.I.C.K. 2000, Kubo 2010).

Nonetheless, this position is not overwhelmingly supported in Kosovo. There is also the view that the acquisition of weapons had never actually been a significant obstacle for two main reasons. First, plenty of arms had been bought from the Yugoslav army itself; and second, Albania had never been under full control of its army units, making trade between the Albanian army and the KLA feasible from early on. In addition, allegedly most Albanian weapons were anyway operationally useless, with the quality of the chemical composition of the gun powder in bullets to be very low, causing a gun to jam after the firing of a couple of bullets. Thus, although the accessibility of the Albanian stockpile may have been a contributing factor to the further equipment of the KLA, it is possible that it was not as a central factor as the existing literature suggests.

Nonetheless, the fact that the KLA acquired weapons when they decided to pursue the violent approach demonstrates significant organizational capacities. The KLA also established military training camps in Kosovo and Albania, where thousands of recruits received at least a basic military training and the KLA leaders even recruited former Yugoslav army officers to conduct the training in some cases (Perritt 2008, Mulaj 2008). The ability to build an efficient guerrilla, quasi-regular army within such a short period of time, shows management skills that could be later transformed into state running competencies in an independent Kosovo.

However, what proved to be more challenging than the acquisition of weapons was the recruitment of soldiers. Although by 1997 the Kosovo Albanians were willing to change their support to more aggressive means, until 1997 the KLA numbered only a few hundred members (Kubo 2010, Hedges 1999, Bekaj 2010). The Serbian state reacted ruthlessly to any suspi-

cion of resistance or insurgency, thus, people were terrified and reluctant to risk their own and their families' lives by joining the KLA.

The turning point was the massacre of the Jashari family in 1998 (Int. 23, Non-EU diplomat). The Jasharis had been infamous in Kosovo for their long-standing and fearless resistance toward Serbia. Adem Jashari had been one of the leading members of the KLA (Hedges 1999) and known to have been guilty of the murder of a Serbian policeman (Judah 2000b). Their village Prekaz was for years impermeable to Serbian forces, who had attempted by 1998 at least twice to arrest the Jasharis. Every time though, their operations had failed after meeting fierce resistance (Bekaj 2010).

This time, though, Serbia was determined to use full force to break their defiance. Early in 1998 Robert Gelbard, Bill Clinton's special envoy to the Balkans, had described the KLA as a terrorist group stating also confidently "I know a terrorist when I see one and these men are terrorists" (BBC 1998). Milošević, probably misinterpreting the statement, perceived it as a green light to proceed to operations against anyone suspected of involvement. In March 1998 a full scale operation began with the Serbian army attacking the region of Drenica, considered as the "hotbed of Albanian terrorism" (HRW 1998). The operation focused on an attack against the compounds of the Jashari family, which ended with the death of at least 56 members of the extended family<sup>4</sup> including 18 women and 10 children aged sixteen or younger (Bekaj 2010, HRW 1998).

The massacre of the Jashari family, rather than demoralizing the Albanians, had the exact opposite results. The Jasharis were turned into martyrs, while their mass killing showed the Albanians that their families could not be protected as long as Serbian oppression continued (Perritt 2008). Thus, this event triggered an unprecedented degree of unity, determination and solidarity among the population and thousands of Albanians rushed to join the KLA (Int. 23, Non-EU diplomat). In a short while, the KLA had multiplied its ranks with volunteers coming not only from Kosovo, but also from the diaspora (Bekaj 2010). Estimating the exact number of KLA soldiers is difficult because the KLA comprised both regular soldiers and civilians, who had weapons and some sort of training, but which were meant only to defend their own houses and villages. Furthermore, in all probability KLA leaders exaggerated the actual numbers of their forces in their public statements, leading to a very broad estimation of fifteen to thirty thousand men (Perritt 2008). What remains clear, however, is that the KLA had turned from a guerrilla movement with few hundred recruits into a quasi-regular army numbering thousands in its ranks.

Still, KLA leaders knew that their military capacities were not strong enough to defy the professional and well-equipped Serbian army. Therefore, the principal aim of their strategy was to attract the attention of international public opinion and make the international community notice (Int. 3, Qehaja).

In order to achieve this, they maintained guerrilla tactics intending to provoke Serbian retaliation. Serbia indeed responded by committing heinous crimes that were subsequently publicized to the international media. The atrocities committed by the Serbian forces produced an outcry of international public opinion, who only witnessed the Serbian retaliation and not the KLA provocation. Thus, through a combination of the escalation of violence and skillful manipulation of the international media, in less than two years the KLA had attracted such a level of international attention that would eventually lead to the NATO military intervention.

The tragedy of the Jashari family had triggered the interest of the international community for Kosovo. However, the turning point that led to active international intervention was the Račak massacre, where Serbian forces had allegedly executed 45 Albanian civilians. Serbia still denies the massacre and subsequent forensic reports indicate that the bodies had possibly not been executed but might have been killed in an armed confrontation between the Serbian army and the KLA the day before and later been placed in a ditch to simulate a massacre (Bissett 2001). Nonetheless, regardless of whether the Račak massacre was real or not, international public opinion willingly accepted the assertion of the head of the OSCE Kosovo Verification Mission<sup>5</sup> (KVM), William Walker, who instantly proclaimed that the Serbian security forces were “directly responsible for the massacre of 45 civilians” (Udovički 2000, 332). The Račak massacre offered the pretext for the international community to get more involved and later justify military intervention on humanitarian grounds.

The fierce and indiscriminate retaliation of the Serbian regime was one of the reasons why the KLA had been so successful. Milošević had overreacted in his responses, provoking an international outcry. Furthermore, the KLA leaders had built a very effective public image, appearing courteous and reliable, when in contrast Milošević disregarded public opinion and also became disrespectful toward international envoys (Ints. 12, EU diplomat, 23 Non-EU diplomat). In what follows, it will be shown how Milošević’s misrule and misconduct played a decisive role in the process of Kosovo’s independence.

### MILOŠEVIĆ AND THE YUGOSLAV WARS

In hindsight, Milošević’s heavy-handed rule in Kosovo was a contributing factor to Kosovo’s successful secession. Ever since the late 1980s, Milošević had taken actions that could be used against Serbia later. When Milošević abolished the autonomous status of Kosovo, he violated a fundamental element of internal self-determination as expressed in international documents (UNGA 1970). The combination of the sudden abolition of autonomy and the



subjugation that followed provided Kosovars with the arguments (and fears) that this might happen again and therefore independence was the only viable solution (Int. 15, Kursani). In addition, Milošević's actions created the widespread perception that the Serbian system as a whole was "anti-Albanian." It made thus no difference, who the leader in Serbia would be, leaving again no other solution apart from complete independence from Belgrade (Int. 11, Malazogu). Milošević's actions then, by coercing the Kosovo Albanians and completely dividing society, offered ten years later the moral high ground and the necessary justification for Kosovo to demand independence as the only acceptable and viable option.

Even during the 1990s, the human rights violations Milošević's regime was committing had been used as a policy-making tool by Rugova. When the Kosovars had the opportunity to overthrow Milošević in the elections of 1992 by supporting his opponent Panić, they decided that the most beneficial option for their cause would be to continue with Milošević (Agami, cited in I.I.C.K. 2000, 49). Panić had promised the restoration of Kosovo's autonomy, including the re-employment of the sacked personnel and the re-opening of Albanian press and schools. However, should the Kosovars have accepted Panić's proposal, they would have lost the predominant justification of their demands for independence, as their claims were largely based on the human rights abuse they suffered under the Serbian regime. Therefore, "it would have been a disaster for them if a peace-monger like Panić had restored human rights, since that would have left them with nothing but a bare political agenda to change borders" (Vickers, cited in Udovički 2000, 324). Rugova's government then in order to achieve the internationalization of Kosovo's issue, preferred to retain the existing status quo and eventually use Milošević's misrule to promote their goals.

Moreover, it is possible that Rugova might have expected that the Kosovar cause was more likely to be achieved if Milošević prevailed. The implementation of Milošević's doctrine "all Serbs in one state" incorporating into Serbia the Serb inhabited Croatian regions of Krajina and Eastern Slavonia and the Serb occupied territories of Bosnia, would practically lead to a general rearrangement of the borders of the former Yugoslavia according to ethnicity. Thus, Rugova might have expected that if the final peace settlement was according to ethnic lines the international community would have no reason to oppose a similar arrangement for Kosovo as well (Judah 1999). It is unknown whether this was indeed Rugova's estimation, as by the mid-1990s the balance had shifted and Serbia was losing the war. Moreover, Serbia was financially devastated by the long international financial sanctions and its population was demoralized by the war and the continued poverty (Sell 2002).

In the meantime, the Bosnian Serb forces, led by Radovan Karadžić and Ratko Mladić, proceeded to actions of intimidation against international per-

sonnel in Bosnia. In May 1995 Mladić's forces took hostage approximately 350 UN peacekeepers as an answer to the NATO airstrike<sup>6</sup> of some ammunition warehouses. The UN personnel were chained and placed in front of ammunition depots and were used as a human shield to prevent any other potential air attacks (Ramet 2002). The hostages were released two weeks later after extensive negotiations. However, the capture of the UN personnel showed how inadequately equipped the UN mission was to protect even their own personnel, let alone to provide any substantial security to the local population. Regrettably, those shortcomings were more evidently revealed two months later when the Bosnian Serb army attacked the Muslim enclave of Srebrenica.

In July 1995 Bosnian Serb forces marched toward the Bosnian-held enclaves of Žepa and Srebrenica. Both had been declared safe areas, protected by UN forces and hosted approximately fifty thousand Bosnian Muslim refugees. When Mladić attacked, the Bosnians were unable to defend themselves, as they had handed over their weaponry when Srebrenica was proclaimed a safe area. Although the Bosnians requested their weaponry back after the Serb offensive began, the request was denied under the assurance that the UN forces would protect them. However, as the siege intensified the UN personnel refused to use any military equipment they possessed trying to avoid the escalation of the situation. The requests of the UN commander in Srebrenica for deployment of close air support were repeatedly denied by the UN commanders in Sarajevo and Zagreb. Finally, after five days of siege Srebrenica fell with the UN not firing "a single shot directly at the advancing Serb forces" (A/54/549 1999, 304). What followed was an act of genocide, the worst Europe has seen since the end of the World War II. An estimate of 5,000 to 8,000 men and boys were executed, others had been killed while fleeing, while women, children and elderly had been put into buses and transferred to Muslim territory<sup>7</sup> (Klep and Winslow 1999, Honig and Both 1996).

Both events were humiliations that the international community was not disposed to forget. The UN hostage crisis, covered by international media, demonstrated publicly the limitations and inefficiency of the international community on the ground. In the case of Srebrenica the magnitude of the massacre and the atrocities committed were not only a humiliation, but a constant source of guilt for the international envoys for years to come. In that sense, Kosovo was the beneficiary of the experiences of the Yugoslav wars as the international community was not prepared to risk again its reputation as a mediator and guarantor of peace. In addition many of the international representatives genuinely felt guilty and responsible for failing to provide safety for the people in Srebrenica (Int. 23, Non-EU diplomat). Thus, when the Kosovo Verification Mission reported the escalating situation in Kosovo,

the international community, determined not to let a second Srebrenica occur, decided to intervene promptly (Caplan 1998).

In addition, after the end of the Yugoslav wars Milošević was not accused of war crimes along with Karadžić and Mladić by the International Criminal Tribunal for the former Yugoslavia (ICTY 1995). On the contrary, he was praised by the international leaders and media as the man who made peace possible (LeBor 2003). At the same time, however, the international representatives had been aware of Milošević's ability to control the Serb army and paramilitary organizations, as they also knew about the material and financial support Belgrade provided to the Bosnian Serbs. For these reasons the international representatives were slightly ashamed they had done a deal with him in Bosnia (Int. 27, Senior UN official). This feeling intensified when the extent of the atrocities in Bosnia was being revealed through testimonies of witnesses and trials in the ICTY, and through research of governmental and non-governmental organizations working in Bosnia.

The international community, therefore, sought a pretext that would enable them to get back at Milošević. The pretext was given through the escalation of the situation in Kosovo and the severe retaliation of Serbian forces against the KLA actions (Ints. 6, UN Official, 25, EU Diplomat). Serbian military and paramilitary forces, with the excuse of fighting against the KLA, indiscriminately attacked civilians, including women, children, and elderly. Through the vicious circle of attacks and counter-attacks between the KLA and the Serbian forces, the fourth war in the Balkans was starting. This time, the international community was determined, on the one hand, not to repeat the mistakes of the Yugoslav wars, and on the other hand, to swiftly stabilize Kosovo, as there were fears that a full-scale conflict there could destabilize the still fragile situation in the Balkans as a whole.

Milošević's attitude after the Dayton agreement also marginalized Serbia at the international level. Milošević probably presumed that he would be rewarded for his efforts and his catalytic role for the achievement of peace in Bosnia. Thus, he expected the revocation of the international sanctions that had brought Serbia's economy to the verge of collapse (Sell 2002). Indeed, after Dayton, the UN arms embargo and trade sanctions were lifted. However, the United States introduced unilaterally the "outer wall" sanctions prohibiting the Federal Republic of Yugoslavia from accessing major international organizations, including the International Monetary Fund (IMF) and the World Bank until "substantial progress toward the solution of the Kosovo issue" was demonstrated (Hasani 1998, 4). Milošević seemed to feel betrayed by the international community and proceeded to irrational actions. He not only ignored the international community's requests for normalization of Kosovo but also adopted additional suppressive measures against Kosovo Albanians (Int. 12, EU Diplomat).

Apart from the issue of Kosovo, however, Milošević was turning into a dictator crushing democratic rule in Serbia (Int. 26, Civil society activist). Fraud in the local elections of 1996 was widely known, while opposition parties boycotted the 1997 parliamentary and presidential elections due to unfair and nontransparent electoral conditions (CNN 1997, IFES 1997). From 1996 onwards massive demonstrations were taking place for months in which citizens demanded his resignation (Int. 27, Senior UN official). All this indicated to the international community that the Milošević regime was out of control and needed to be constrained, as it could otherwise endanger stability in the region once again (Int. 26, Civil society activist).

A further reason that contributed to Serbia's international marginalization was that Milošević was eventually regarded as an untrustworthy partner. Although Milošević repeatedly denied any responsibility and connection with the atrocities in Bosnia, international envoys strongly suspected his involvement, a suspicion that was further strengthened by witnessing direct talks between Milošević and Karadžić and Mladić (Sell 2002, Holbrooke 1998). Moreover, Milošević blatantly lied to international envoys resulting in distrust, diminishing the credibility of his claims (Int. 23, Non-EU diplomat). What further added to the untrustworthy image of Milošević was that through the years of interaction international representatives had realized that Milošević was a political opportunist (Int. 28, former Yugoslav ambassador). They watched how he betrayed those closest to him, beginning with his friend and mentor Ivan Stambolić,<sup>8</sup> how he ascended to power using nationalistic propaganda, while strongly denying being a nationalist in the presence of foreigners (LeBor 2003). International representatives also noticed how easily Milošević gave away Krajina to Tudjman and how he gave up some of the most crucial demands of Bosnian Serbs at Dayton when he genuinely wanted the war to be over and the sanctions against Serbia to be lifted (Bildt 1998). All this combined, turned Milošević into an unreliable partner resulting in the political and diplomatic marginalization of Serbia.

Serbia's marginalization was also increased through the sharp contrast between Milošević's dismissive behavior and the successful lobbying of Kosovo Albanians. While Milošević was regarded as a ruthless dictator and was projected as such in the media, Kosovo Albanians managed to win the support of public opinion. The media, along with the endorsement of the West, turned the KLA from a terrorist organization into legitimate freedom fighters and the Kosovo Albanians into victims who needed protection.

Milošević's misrule, thus, in combination with the recent memories of the Yugoslav wars, played a catalytic role for Kosovo's successful secession almost ten years later. The unprecedented atrocities that Serb forces have committed in Bosnia and the exaggerated actions of suppression against Kosovo Albanians provided the international community the necessary reasons to intervene more actively. Hence, under the threat of military interven-

tion the two parties, Serbs and Kosovars, agreed to meet in Rambouillet. Yet, Rambouillet failed to produce an agreement and NATO intervened.

## RAMBOUILLET FAILS AND NATO INTERVENES

The Rambouillet negotiations were important for Kosovo's successful secession for various reasons. First, their failure triggered the military intervention of NATO, which was a milestone for Kosovo's secession as it practically ended Serbian authority and jurisdiction in Kosovo and turned the latter into a UN protectorate. Second, the Rambouillet accords constituted the foundation of subsequent resolutions regarding the final status of Kosovo. Previous attempts to restore order in Kosovo had been made by the Contact Group<sup>9</sup> since the autumn of 1998. Under the threat of use of force Richard Holbrooke, the US Special Envoy, achieved an agreement with Milošević on the principles of previous Security Council resolutions 1160 (1998) and 1199 (1998) according to which all actions of violence and terrorism in Kosovo would cease immediately. Serbia committed to withdraw special police units and refrain from actions affecting the civilian population, accepted an OSCE verification mission and agreed to allow access to humanitarian organizations in Kosovo (S/1998/953, S/RES/1160, S/RES/1199 1998). Serbia agreed to the deployment of over 2,000 OSCE verifiers and the return of refugees and also consented to the establishment of a NATO air verification mission over Kosovo to confirm compliance with the provisions of S/RES/1199 (Holbrooke 1999, NATO-FRY 1998).

Indeed, on October 27, 1998, the NATO Secretary-General announced that the level of violence had been significantly reduced and that the cease-fire held, with the exception of some sporadic incidents. An immediate improvement in the humanitarian situation was observed, while international relief organizations resumed operations in Kosovo and thousands of displaced persons returned. The NATO Secretary-General also reported that over 4,000 members of the Yugoslav Special Police had been withdrawn, most police and military units that were not normally placed in Kosovo had also been removed, and check points had been dismantled. Thus, substantial steps had been made and this progress created the opportunity to move the political process forward toward the achievement of a political solution (NATO SG 1998).

The agreement, however, was short-lived as the KLA took advantage of the removal of the Serbian forces and renewed its military operations. Later, leading members of the KLA would characterize the cease-fire as "life-saving" for the KLA, as it gave them time to re-organize after the heavy losses they had suffered from the Serbian retaliation and it allowed them to recapture territories seized by the Serbian army (Interviews with Haradinaj

and Çeku, cited in Kubo 2010). Serbia, facing the renewed KLA offensive, responded with returning heavy equipped military units to Kosovo, proceeding also to reprisals.

The Račak massacre in January 1999 accelerated the already-existing plan for further negotiations after the collapse of the Holbrooke agreement. Under threat of use of force, representatives of Serbia and Kosovo Albanians agreed to meet in France in Rambouillet to negotiate an Interim Agreement for Peace and Self-Governance in Kosovo. The Serbian government chose to create a delegation composing of members not only of Serb nationality, but also representatives from Montenegro and ethnic minorities of Kosovo—including Goranis, Turks, Muslims, Romanies, and Egyptians, in an attempt to demonstrate that their position was endorsed by the people of Kosovo and FRY as a whole, in contrast to the Kosovo Albanian delegation that was dominated by Albanian “terrorists” (Milošević 1999). The Kosovo delegation included representatives of the elected government of the LDK, led by Rugova, members from the opposition party United Democratic Movement (LBD, *Lëvizja e Bashkuar Demokratike*), which was closer to the KLA, and members representing the KLA itself, led by Hashim Thaçi. As the Kosovo-elected government constituted a minority of the delegation, Hashim Thaçi of the KLA was appointed chief of the delegation (Weller 1999).

The course of the negotiations remains to this day a matter of controversy. On the one hand, prominent voices maintain that the Rambouillet process was far from a negotiation, claiming that it was a diktat and only a nominal process necessary to legitimize intervention after its expected failure.<sup>10</sup> They focus both on the fact that the Contact Group had set the so-called non-negotiable-principles,<sup>11</sup> and also that the final draft included provisions that no sovereign state would accept, referring mostly to the extensive NATO presence<sup>12</sup> in FRY (Booth 2000). In addition, they claim that the Serb and the Russian delegations were not informed about those crucial points of the draft until only some hours before the planned signing of the agreement (Marković 2005, Lynch 1999).

On the other hand, distinguished scholars and participants in the negotiations argue that international representatives were making every effort to meet the Serbian demands and persuade the Serbian delegation to sign (Weller 2009). They report that the Serbian delegation was uncooperative, while they repeatedly demonstrated inappropriate behavior (Int. 23, Non-EU diplomat, Weller 2009). They also provide counter-arguments to the claims regarding the marginalization of the Russian and Serbian representatives<sup>13</sup> (Bellamy 2001).

Another matter of controversy is the stance Russia maintained during the negotiations. Participants in the talks assert that Russian envoys were aware that an agreement at Rambouillet was the last opportunity for a peaceful settlement of the conflict (Petritsch 2008). Therefore, Russia wanted the

negotiations to succeed and played an important and constructive role toward this end (Petritsch 2008, Int. 23, Non-EU diplomat). In contrast, Weller (1999), also a participant in the Rambouillet conference, argues that Russia acted as an advocate of Serbia and tried to frustrate the very concept of a settlement, which might appear to have been imposed upon the FRY and which would be enforced by NATO. He adds, nevertheless, that the other members of the Contact Group praised Russia's attitude as they hoped that Russia would persuade Milošević to sign (Weller 2009).

The course of negotiations and the final draft of the Rambouillet conference show that the Serbian delegation did not engage in a constructive way in the negotiations as there was no actual incentive to do so, apart from the constant threat of use of force.<sup>14</sup> The Kosovo Albanian delegation was offered incentives in order to sign the agreement, which did not happen for the Serbian side (McCwire 2000). For instance, the principal requirements of the Serbian delegation were that there should be no provisions for future independence of Kosovo and that there should be no NATO military force in Kosovo. On the contrary, the Kosovars argued that in light of the previous shortcomings of the UN and OSCE both in Kosovo and in Bosnia, only a NATO force would be effective for the implementation of the agreement and demanded also a provision for the settlement of the future status of Kosovo. In order to satisfy the Kosovar side, throughout the negotiations the involvement of NATO appeared to be a fundamental part of the agreement that the FRY should comply with, although the presence of NATO was not explicitly mentioned in the non-negotiable-principles (Contact Group Negotiator's Proposal 1999). Furthermore, in order to meet the requirements of the Kosovo delegation, an amendment was made to the final section of the agreement referring to the settlement of the final status according to "the will of the people"<sup>15</sup> (Weller 1999). Finally, when the Kosovars threatened that they would not sign the document, Madeleine Albright, the US Secretary of State, spent a considerable time in meetings with the Albanian delegation trying to persuade them to do so (Weller 2009).

The two principal demands of Kosovo Albanians were met, meaning that the most crucial demands of the Serbian side were rejected and space was left to negotiate only issues of secondary importance. The Serbian delegation seemed to be entrapped between two options that would most possibly lead to Kosovo's independence, either through the acceptance of the agreement and the determination of the final status three years later, based among others on the will of the people, or as it eventually happened through the rejection of the agreement and an imminent NATO intervention (Herring 2000). Thus, although the Kosovo Albanians made considerable concessions regarding the domestic issues of Kosovo, minority rights, powers of minorities within the assembly, and the extent of self-governance of ethnic communities, Serbia at

this point was unwilling to negotiate anything that implied an independent Kosovo.

Evidently Russia could not exert enough influence either on the Contact Group so as to amend the proposals in that way that the Serbian side would accept or as to convince the Serbian government to accept one of the proposed drafts (Bellamy 2001). Although Russia had worked with the United States and the EU as a member of the UN Security Council and the Contact Group and had endorsed previous Resolutions 1160 and 1199, it began to perceive its increasing marginalization in the decision-making procedures (Harzl 2008, Antonenko 1999). At Rambouillet, Moscow realized that the West was resolved to ignore its objections and deploy a large-scale military force on FRY and use force to restore peace in Kosovo, if Milošević refused to comply (Averre 2009). Russia fundamentally opposed to this idea, and constantly reaffirmed the need for a political solution to the conflict (Wolff 2003). Moscow, however, firmly supporting a non-military solution contributed to Serbia's intransigent stance, instead of persuading Milošević to show flexibility (Petritsch 2008, Levitin 2000).

Nevertheless, neither the Serbian nor the Albanian delegation had the authority to sign the agreement in Rambouillet. Thus, the parties requested two weeks consultation time at home and they agreed to meet again three weeks later in Paris. Upon arrival in Paris, the Serbian delegation proposed a new agreement completely different than the concluding draft of Rambouillet. This draft, shorter, much vaguer, and less elaborated than the Rambouillet Accords, deprived Kosovo of any substantial self-governance, while the latter was referred throughout the document as Kosmet,<sup>16</sup> a term that Kosovo Albanians regarded as derogatory. Large sections were removed or were significantly altered and the whole section of NATO presence was absent (Agreement for Self-Government in Kosmet 1999). The draft, being considerably different from the non-negotiable principles the Contact Group had set, was a provocation. Thus, with no substantial discussion on the submitted draft, the Kosovo Albanian delegation proceeded to the signing of the Rambouillet agreement, being witnessed by the Contact Group members, except for the Russian representative. At the same time the Serbian delegation signed in the presence of the Russian envoy the document they had proposed (Agreement for Self-Government in Kosmet 1999).

The Rambouillet negotiations both in terms of the document it produced and as a process were of critical importance for the future success of Kosovo's secession. First, the Rambouillet Accords became the cornerstone on which subsequent documents such as the Security Council Resolution 1244 were based (S/RES/1244 1999). The document also included a provision for the future settlement of the final status of Kosovo (Chapter 8, Art. 1(3)) referring to a mechanism determining its final status "on the basis of the will of the people" three years after the enforcement of the agreement. This refer-



ence would prove crucial for Kosovars' understanding of when and how they would expect to achieve independence and would constitute the driving force behind their demands for uncontested statehood in the middle of the next decade.

Second, the failure to reach an agreement with Belgrade resulted in eleven weeks of NATO bombing of the whole territory of FRY including Kosovo. With NATO bypassing the Security Council, a weak and marginalized Russia could not prevent the bombing. There is a vast literature on the NATO campaign regarding its legitimacy, legality, whether it was indeed a humanitarian operation or it served other interests of political, geopolitical, strategic, and economic nature, as well as whether this air invasion was actually successful in fulfilling its objectives.<sup>17</sup> In any case, what the NATO intervention achieved as regards Kosovo's secession in 2008 was the abolition of Serbian authority in Kosovo and the subsequent position of Kosovo under UN administration. Although the end of the NATO bombing legally left Kosovo as a part of the FRY, the withdrawal of Serbian forces and the establishment of NATO troops as guarantors that Serbia would not proceed to any military re-annexation of Kosovo, in combination with the UN administration until a final status has been reached, set in motion the dynamic that eventually led to Kosovo's unilateral declaration of independence in 2008 (Cotter 2009).

However, the NATO intervention had a further side-effect. At the start of the NATO bombing the situation on the ground escalated to terrifying levels. Serbian military forces expelled hundreds of thousands Kosovo Albanians, who either managed to reach neighboring countries or were internally displaced in Kosovo. Considering the severity of the Balkan winter, the latter meant that the most vulnerable members of the civilian population, children and elderly would not survive cold and famine. In addition, Serbian armed forces executed Albanians indiscriminately and en masse. Although the numbers vary from 4,000 to 10,000 killed or missing, the situation in Kosovo had certainly turned into a significant humanitarian catastrophe (Webber 2009, Herring 2000). Even though NATO cannot be held responsible for causing these atrocities, it can be held accountable for producing the cover of war for the ethnic cleansers and for inflaming the latter's desire for revenge against defenseless civilians, who, unlike NATO's warplanes, were accessible targets (Booth 2000)

Nevertheless, the level of the atrocities, however sad, had a positive effect on the future outcome of Kosovo's secession. Often it is said that after the crackdown of 1999 the situation was beyond the point of reconciliation (Int. 14, EU diplomat). This view is further strengthened by the atrocities that followed after the bombing ended and NATO troops entered Kosovo. At this point it was the Albanians' turn to retaliate and the same horror followed, with this time the Albanians as the perpetrators and the Serbs the victims (Int. 20, Maksimović). Therefore, NATO's intervention made both a direct and an

indirect contribution to Kosovo's successful secession. Directly it forced Serbia to hand over Kosovo's administration to the UN, and indirectly, through the escalation of violence during and after the bombing, it strengthened the position that there was no other viable and sustainable solution other than Kosovo becoming independent.

Lastly, the Rambouillet process and the NATO intervention signaled a major shift in power dynamic in the Serbian-Kosovar relations. Through the support of the United States and major Western countries, the rights of a sovereign state were marginalized in favor of separatist demands. Although, Serbia was supported by Russia, at the end of the 1990s Russia was an economically weak and politically marginalized country. Rambouillet showed that at that time Moscow had no influence either on the Contact Group members or even on Serbia. This asymmetric power difference between the supporters of each side facilitated a unilateral NATO military intervention that would have never been possible with a mighty Russia to counter-balance the negotiations. This power dynamic established in 1999, continued throughout the 2000s and led eventually to Kosovo's unilateral declaration of independence in 2008.

## CONCLUSION

Various and interrelated reasons led to the internationalization of the Kosovo issue during the 1990s, shaping the outcome of Kosovo's unilateral secession in 2008. Although Rugova's non-violent resistance did not achieve a place at Dayton's negotiation table, it won the respect and the sympathies of the international community. This was not enough at that time to bring Kosovo to independent statehood. However, the human rights abuses Kosovo Albanians endured throughout the 1990s provided them later with arguments in favor of their independence. The combination of the suppression they suffered and their stoic reaction created the perception that they were innocent victims in the hands of a ruthless leader, a view that was increasingly strengthened as the atrocities of the Yugoslav wars were being revealed. Also, the sudden abolition of their autonomy and the harassment that followed created according to Kosovo Albanians a precedent that could be repeated at any time. Consequently both arguments significantly contributed to the approach that there was no other solution short of Kosovo's independence, as because of what they suffered they could not return under Belgrade's rule and any other political settlement could be as easily annulled as had happened with Kosovo's autonomy in 1989.

In hindsight Kosovo's exclusion from the Dayton accords positively contributed to the process of Kosovo's secession. In all likelihood, Kosovo would not have achieved independence then. However, the fact that their

demands were once again ignored led to the realization that peaceful resistance not only would not result in the attainment of their cause but also that without violence Kosovo would be forgotten. Thus, Kosovars resorted to arms and the KLA emerged. The KLA contributed to Kosovo's successful secession largely by provoking with their actions massive Serbian retaliations. The KLA, even though fairly well-organized in the end, remained less capable than the well-equipped Serbian professional forces. However, Milošević's misrule and the excessive way he reacted to KLA attacks, publicized through a well-orchestrated media campaign, provoked an outcry in international public opinion.

The deteriorating situation on the ground alarmed the international community that pursued actions to stabilize the situation in the region. Having in mind the previous experience of the Yugoslav wars and still remembering the inefficiencies in Bosnia, the West was determined to react promptly this time, both to prevent a second Srebrenica from occurring and also to defend its reputation as a capable conflict resolution mediator and peacekeeper. As Milošević was still the Serbian leader, a man the international representatives distrusted and held accountable for the atrocities in Bosnia, the escalation in Kosovo provided the pretext to punish Serbia for previous crimes and rectify past international shortcomings. Thus, although the Yugoslav wars had overshadowed Kosovo's importance in the beginning of the decade, by the end of the 1990s this experience accelerated the actions of the international community, offering also the excuse for an intervention.

Furthermore, it became clear during the Rambouillet negotiations that there was an imbalance between the capacities of the international backers of each side. The Kosovo Albanian cause was championed by the United States at a time when US hegemony in international affairs was undeniable. Serbia's primary supporter was Russia; a weak Russia, though, not in a position to exert real pressure. Due to the absence of a counterweight in the peace processes, NATO was able to pose a credible threat for the use of force and to carry it out when necessary. As a consequence of the NATO intervention, Kosovo was separated *de facto* from Serbia. Although, officially after the bombing Kosovo remained a part of FRY, in reality all Serbian authority was effectively removed. Serbian military forces withdrew, and Kosovo was placed under international administration.

Summing up, changes taking place across four different levels—local, state, regional, global—turned Kosovo from a Serbian internal matter to a major international issue that triggered NATO's unilateral military intervention. At the local level, the Kosovars abandoned Rugova's peaceful resistance and turned to KLA's violent approach. This resulted in the international community noticing and prioritizing the settlement of the Kosovo issue. At the same time, at the state level, Milošević had lost his credibility and legitimacy. The international community held him accountable for the crimes

committed by Serbs during the Yugoslav wars and sought a pretext to get back at him and Serbia for past abuses. At the regional level, first, the Yugoslav wars had been over and the international community had the time, energy, and resources to deal with the issue of Kosovo. In addition, the experience of the Yugoslav wars, the humiliation of the numerous shortcomings, and the guilt of Srebrenica, led the international community to act as soon as possible to prevent a second Bosnia from occurring. Finally, at the global level, the Cold War was not only over, but the United States enjoyed and demonstrated its absolute supremacy after almost half a century of competition with USSR/Russia. In 1999 a weak Russia was unable to defend the interests of Serbia. This one sided power distribution between the United States and Russia was transferred to the protégés of each country, Kosovo and Serbia, respectively, changing the power dynamic in favor of Kosovo and initiating the process of Kosovo's successful secession.

## NOTES

1. The actual reasons and the legitimacy of NATO's involvement constitute a debate in itself, being however, beyond the scope of this book.

2. Kosovo Albanians avoided joining the army out of fear that they would have been killed by Serbian soldiers before even going to the war (Interview 18, Civil Society Activist). However, there is also the argument that this was a deliberate action against Serbia, strengthened by reports of Albanians defecting from the Serbian army to join the Croatian forces (Judah 2000c).

3. "In a typical pyramid scheme, a fund or company attracts investors by offering them very high returns; these returns are paid to the first investors out of the funds received from those who invest later [ . . . ] To attract new investors, a scheme may raise interest rates, but the larger interest payments soon force it to raise rates again. Eventually, the high rates begin to arouse suspicion or the scheme finds itself unable to make interest payments" (Jarvis 2000).

4. The exact number varies among sources because the bodies were buried in a mass tomb by the police some days after the attack (HRW 1998).

5. In a previous attempt to stabilize the situation in Kosovo, under the threat of the use of force, Richard Holbrooke achieved an agreement with Slobodan Milošević in October 1998 that included the deployment of an OSCE verification mission. The mission would be composed of 2,000 unarmed verifiers and would have as a main task to verify compliance by all parties in Kosovo with UN Security Council Resolution 1199, calling for a cease-fire, peaceful settlement of the conflict and return of the displaced persons (OSCE 1999, S/RES/1199 1998).

6. Between 1993 and 1995 NATO engaged in a number of air strikes against Bosnian Serb facilities. Although, the attacks had an important military and diplomatic impact, they were mainly retaliatory with limited tactical and strategic elements. Hence their objective was to lead the Bosnian Serbs to a change of attitude instead of weaken their capacities.

7. Also Vollen (2001), Leydesdorff (2011), Brunborg, Lyngstad, and Urdal (2003).

8. Ivan Sambolić, President of the Republic of Serbia 1986-1987, had to resign when his protégé Dragiša Pavlović was accused by Milošević of impeding ideological unity and of being against Tito and Yugoslavia during the Eight Session of the Serbian Communist League in 1987.

9. The Contact Group had been previously founded to address the war in Bosnia and was comprised by representatives of the United States, UK, France, Germany, and Russia, while later representatives of Italy were included. The meetings of the Contact Group were usually attended also by representatives of the EU and NATO.

10. Some literature on Rambouillet argued in favor of this approach Herring (2000), MccGwire (2000), Chomsky (1999), Schwarz (1999), Jones (2002).

11. Key points of the Non-Negotiable-Principles included that after an interim period of three years a mechanism would be established to settle the final status of Kosovo, the territorial integrity of FRY and neighboring countries would be respected, the rights of national communities would be protected, free and elections in Kosovo would be conducted, amnesty and release of political prisoners and international involvement in full cooperation with the parties (Contact Group Negotiator's Proposal 1999).

12. The provisions regarding NATO authority, rights and freedoms are outlined in Chapter 7 and Appendix B of the Rambouillet document. More specifically, in Chapter 7, Art. I, §2(b) the document provides for the authorisation of NATO to take all actions required to ensure the implementation of the agreement, including also the right of use of force, while paragraphs 6, 7, and 8 of Appendix B present the freedoms NATO was supposed to enjoy in the whole FRY, along with the complete immunity of NATO personnel (Rambouillet Accords 1999).

13. Also, Daalder and O'Hanlon (2004), Judah (2000c), Judah (2009), Sell (2002).

14. The threat of use of force proved insufficient to secure Serbian unconditional compliance perhaps for two reasons: First, it seemed that Milošević was initially not convinced about the credibility of the threat (Bellamy 2000b). He probably expected that NATO would not maintain the necessary coherence to conduct the air campaign believing that potentially Greece, Italy, or Germany would veto such decision (LeBor 2003). Furthermore, Milošević supposed that Russia's veto in the UN Security Council would block NATO's operations, misjudging the willingness and the ability of the latter to proceed to a military action without the consent of the UN Security Council (Wolff 2003). Second, after Milošević was convinced that the air campaign would begin in case of not signing the Rambouillet agreement, he still would not comply for a number of reasons (Holbrooke 1999). To begin with, it seems that Milošević expected that NATO's operation would last only for a short period of time. Thus, he was confident that Serbia military infrastructure could survive some days of air bombing and after the end of the operations he could renegotiate a settlement for Kosovo in more favorable terms than the ones offered in Rambouillet. In the meantime, he probably expected that through the NATO external threat he would regain his lost legitimacy in the eyes of the Serbs. For months Serbian citizens demonstrated against him demanding his resignation. By the time the air-offensive began, however, these protests immediately stopped and the crowds turned against NATO and the United States (Interview 27, Senior UN Official). Thus, it is possible that Milošević had (mis)calculated that a brief NATO military offensive could have been beneficial for him, as he would both be able to keep Kosovo with a more advantageous agreement and have regained his legitimacy as the leader who defended the Serbian territorial integrity against an external enemy.

15. The provision for the future settlement of the final status of Kosovo is to be found in Chapter 8, Article 1(3), where it is stated that "three years after the entry into force of this Agreement, an international meeting shall be convened to determine a mechanism for a final settlement for Kosovo, on the basis of the will of the people, opinions of relevant authorities, each Party's efforts regarding the implementation of this Agreement, and the Helsinki Final Act, and to undertake a comprehensive assessment of the implementation of this Agreement and to consider proposals by any Party for additional measures" (Rambouillet Accords 1999).

16. Kosmet is the shortened version of Kosovo-Metohija, the name the Serbs attribute to Kosovo and under which Kosovo was first incorporated in Yugoslavia as an autonomous region within Serbia. Metohija, referring to the Western part of the present day Kosovo means "monastic estates" and it is a term largely resented by Kosovo Albanians as it indirectly refers to the medieval Serbian Kingdom and also implies ownership by the Serbian Orthodox Church and consequently subordination to Serbia. The name officially changed to Kosovo with the constitutional amendment of 1968 when Kosovo's status elevated from Autonomous Province of Kosovo and Metohija to Socialist Autonomous Province of Kosovo (Amendments VII-XIX, 1963 SFRY Constitution 1968). Thus, the reference to Kosovo as Kosmet during the Rambouillet negotiation was a provocation, implying the return of Kosovo to a previous status, with significantly less rights and competencies than the status Kosovo enjoyed in the structures of the former Yugoslavia.

17. For example Webber (2009), Booth (1999), Roberts (1999), Lambeth (2001), Greenwood (2000), Wheeler (2000a), Daalder and O'Hanlon (2004), Gowan (2000), Ignatieff (2001).

## *Chapter Four*

# **Kosovo under International Administration**

The NATO offensive ended with the signing of the Kumanovo agreement and the withdrawal of Serbian forces from Kosovo. Afterwards Kosovo was placed under the UN interim administration (United Nations Mission in Kosovo—UNMIK) until an agreement for its final status has been reached. The international administration itself, the wording of the UN Security Council Resolution 1244 that created it, and certain events occurring during its time substantially affected Kosovo's subsequent secession.

UNMIK's greatly benefited Kosovo's secession, despite its several shortcomings. With its institution-building mandate it indirectly proceeded to state building, putting the foundations in place for the creation of a functional state in Kosovo. It also provided an additional argument in the combination of reasons that made Kosovo a "unique case" as suggested by the United States and its allies upon its recognition as an independent state.

In addition, the direct reference of Resolution 1244 to the Rambouillet accords was perceived by the Kosovars as guaranteeing independence in three years' time through a referendum. This perception, in combination with impatience for the settlement of the final status and frustration against UNMIK, led to the 2004 riots, which accelerated the process of Kosovo's independence by swiftly leading to the Vienna negotiations and the Ahtisaari plan. These negotiations failed to produce an agreement and Kosovo unilaterally declared independence shortly after their conclusion.

## RESOLUTION 1244, INTERNATIONAL ADMINISTRATION AND “STANDARDS BEFORE STATUS”

Security Council Resolution 1244 adopted on June 10, 1999, placed Kosovo under an UN-led international administration (UNMIK). Its main purpose was to provide interim administration in Kosovo and develop provisional democratic self-governing institutions, reaffirming at the same time the territorial integrity of the Federal Republic of Yugoslavia (S/RES/1244 1999). The responsibilities of the international administration were divided into three domains. First, Resolution 1244 prescribed that it would perform civilian administrative functions and would regulate the establishment of substantial autonomy and self-government in Kosovo. Second, the international presence would facilitate a political process for the determination of Kosovo's final status and the transition from the interim institutions to the permanent ones established after the final status has been reached. Third, the international administration would support reconstruction in Kosovo, offer humanitarian relief, protect human rights, and ensure the return of all refugees, while promoting rule of law (S/RES/1244 1999 §11). In addition to UNMIK, a NATO-led force (KFOR) would oversee the withdrawal of FRY forces and would be responsible for the maintenance of peace and security in Kosovo (NATO 1999).

In order to carry out its mandate, the international mission in Kosovo was organized in four “pillars” under the UN leadership. Pillar I, Humanitarian Assistance, led by the Office of the United Nations High Commissioner for Refugees (UNHCR), Pillar II, Civil Administration, under the UN, Pillar III, Democratization and Institution Building, led by the OSCE, and Pillar IV, Reconstruction and Economic Development, managed by the EU (UNMIK 1999). However, the Regulation No. 1999/1 provided that UNMIK would exercise all legislative and executive authority, including also the administration of the judiciary (UNMIK/REG/1999/1, Section 1 §1). UNMIK's job was to coordinate the cooperation of all four pillars. This was proven to be a difficult task as each one of the pillars had their own management structures and center of authority.

On top of that, UNMIK had governance authorities with all powers conferred on the Special Representative of the Secretary General (SRSG). The wide range of tasks entrusted to UNMIK complicated the organizing of the mission and considerably delayed its deployment on the ground. However, even after deployment, the respective pillars operated more in competition rather than cooperation with each other. Seeking to materialize their own objectives, each organization had different priorities and divergent approaches regarding the utilization of financial resources, which impeded the function of international administration as a coherent center of authority (Yannis 2001).



The delay in deployment and the lack of coordination allowed local centers of power to be established in the respective areas of control of each community and fill the power vacuum that was created after the withdrawal of Serbian forces. In Albanian populated areas the KLA took over former state assets, such as industries and electricity and petrol stations, as well as private properties previously owned by Serbs (Perritt 2010). Self-appointed local rulers in both communities created zones of influence, imposing a system of taxation on the citizens of those particular areas. Fertile ground was created for criminal activity not only to flourish but also to be institutionalized through this usurpation of power and control of economic resources by the self-appointed authorities (Yannis 2001). Needless to say, the international administration did not authorize these systems of control and considered them to be illegal. Nonetheless, their establishment showed that the Kosovar society assumed administrative responsibilities swiftly and efficiently. Although unwelcome by UNMIK, which desired to build Western type democratic institutions, the speed and effectiveness with which these unofficial structures were established indicated considerable administrative capabilities, necessary for the creation of a viable state.

Furthermore, UNMIK's delay and the lack of experience in establishing state administration led to a rule of law vacuum during the first months after the end of the NATO intervention. Regulation 1999/1, on the one hand, provided that the laws applicable in the territory of Kosovo prior to March 24, 1999, would continue to apply as long as they did not conflict with internationally recognized human rights standards, the fulfillment of the mandate of UNMIK, and any regulations issued by UNMIK (UNMIK/REG/1999/1, Sections 2, 3). On the other hand, the vagueness of the former provision, combined with the slow establishment of UNMIK and the uncertainty around the final status of Kosovo enhanced the rule of law vacuum (Int. 11, Malazogu).

This was again covered by local actors, mainly affiliated with the KLA who provided basic security and law-enforcement services (Perritt 2010). However, the KLA also took advantage of the prevailing lack of accountability and engaged in horrific actions against Serbs and other ethnic communities, as well as against Albanians, almost annihilating Rugova's army<sup>1</sup> (Ints. 4, press editor, 12 EU diplomat). Serbs living in Pristina during the first year of international administration describe the city to be in a state of terror, with evictions, harassment, and arbitrary executions to be a daily phenomenon (Int. 20, Maksimović, HRW 1999). The international administration allowed these actions of ethnic cleansing, against the Serbs this time. This was not only out of incompetence, but also out of choice, expecting that the creation of an ethnically homogenous Kosovo would strengthen its future stability and viability (King and Mason 2006, Int. 5, EU diplomat).

Eventually the UNMIK-led international administration was set up and also managed to impose itself as a source of authority, successfully leading to a considerable degree of order and stability. Institutions were gradually being formed and constantly being developed, Pristina was slowly reconstructed and infrastructure was improving. Police capacities were significantly improved and ethnically motivated violence was reduced (King and Mason 2006). From 2002 onwards, the local Provisional Institutions of Self-Government (PISG) were assuming responsibilities in several areas, including education, health service, culture, and telecommunications, always, however, under the supervision of UNMIK (Sørensen 2009). Thus, already under UNMIK's administration, Kosovo had made some first steps in the state building process, forming some institutions and slowly acquiring the knowledge on how to run them.

Nonetheless, UNMIK was unsuccessful in establishing itself as an honest and trustworthy administrative body due to its undemocratic structure and the impunity its personnel enjoyed (Lemay-Hébert 2013, Visoka 2012). UNMIK concentrated all powers over the territory of Kosovo—executive, legislative, judicial—overriding one of the basic principles of democracy, that is, the separation of powers. The SRSG exercised all powers, having also the right to “appoint any person to perform functions in the civil administration in Kosovo, including the judiciary, or remove such a person” (UNMIK/REG/1999/1 1999, 1.2). The power UNMIK enjoyed and in particular the authority of the SRSG, was extremely extensive, with reports of the UN-appointed Ombudsman in Kosovo personally accusing the SRSG of abuse of power and impediment of rule of law (Mertus 2001, Ombudsperson Institution in Kosovo 2002). Moreover, international personnel were exempted from domestic law and the jurisdiction of the local courts (Mulaj 2011). Not only that, but also the Ombudsman was not authorized to investigate their actions (Ombudsperson Institution in Kosovo 2002), which amplified perceptions of unaccountability of international personnel.

Furthermore, the public policies the international mission pursued showed limited understanding of the reality on the ground, which inhibited UNMIK's effective administration. Often lacking sound understanding of local history, tradition, and mentality the international officials designed policies estranged from the everyday life needs and culture of Kosovo's citizens (Mulaj 2011). In the process of the development of the legal, economic, and political system international advisers often promoted their own country's regulations with only minor alterations to adjust them to Kosovo's needs (Perritt 2010). In addition, the international administration seemed to have unrealistic expectations regarding the implementation of laws in a territory that lacked formal state-running experience and institutional memory (Ints. 19, EULEX official, 15, Kursani). UN Officials admitted that UNMIK sought to introduce policies alien to the local realities and acknowledged that

they still expected a level of implementation that had not materialized even in their own countries (Ints. 6, 17 UN Officials).

UNMIK's detachment from the reality on the ground, in combination with the extended powers the SRSG concentrated in their hands and the impunity the international personnel enjoyed, undermined the international administration's legitimacy in the eyes of the local population. For many Kosovo Albanians, Kosovo was again under foreign rule, while UNMIK administration was even compared with Serbian oppression (Goldstone 2002, Perritt 2010). Albin Kurti, political activist and later leader of the Vetëvendosje!, claimed that "UNMIK and Serbia are two sides of the same coin and one aspect of domination cannot be distinguished from the other" (Kurti, cited in Lemay-Hébert 2013, 93).

The awkward position of the mission also fuelled frustration against it. UNMIK was in Kosovo with a mandate of interim administration until the settlement of its final status, while one of UNMIK's responsibilities was to facilitate a political process that would lead to the determination of this future status (S/RES/1244 1999, 11(e)). The condition that the above mandate had to be combined with the respect toward the territorial integrity of the Federal Republic of Yugoslavia further complicated UNMIK's place. This provision had as a result that Serbia considered as a violation of Resolution 1244 whatever action the international administration undertook to transfer jurisdiction to local institutions. With Russia's support, almost every step toward the establishment of a self-governing territory became the subject of discussion in the UN Security Council, leading most of the time to a deadlock (Int. 11, Malazogu).

Moreover, UNMIK evidently procrastinated on the transferring of powers to local agents and avoided discussions related to the settlement of the final status. As the institution-building process was gradually progressing and the conditions on the ground were improving, international actors seemed satisfied with the way the situation in Kosovo was evolving (Perritt 2010). In addition, the option of Kosovo to return to a reformed, democratic Serbia was not excluded during the first years of international administration (Schnabel 2000). Therefore, from the point of view of UNMIK, this institution building process could continue for a considerable time in the future, avoiding the thorny issue of final status (Perritt 2010).

Nonetheless, this view was not shared by Kosovo Albanians, who believed that UNMIK's role was to facilitate the process for the settlement of their future status, as mentioned in Resolution 1244. Resolution 1244 stated that the international administration would support the process for the settlement of the final status "taking into account the Rambouillet accords" (S/RES/1244 1999, 11(e)). The Rambouillet accords, though, foresaw the settlement of the final status within three years after the agreement's entry into force, and that the status would be based among others on the will of the

people. Of course, the Rambouillet agreement had not been signed by Serbia and it had never come into force. However, Kosovars interpreted the explicit reference of the Rambouillet Accords in the Res. 1244 as this provision on the final status coming into force through the Res. 1244. Therefore, the Kosovars expected that a final status would be reached within three years, hence by 2002 (Int. 15, Kursani).

What is more, the Rambouillet did not define who the “people” would be according to whose will the final status would be agreed. Nevertheless, the Kosovars took for granted that this referred exclusively to the will of the people of Kosovo. The Rambouillet document referred to a mechanism for the determination of the final status of Kosovo, based also on the “opinions of relevant authorities, each Party’s efforts regarding the implementation of this Agreement, and the Helsinki Final Act, and to undertake a comprehensive assessment of the implementation of this Agreement and to consider proposals by any Party for additional measures” (Chapter 8, Article 1(3), Rambouillet Accords 1999). These further conditions, though, were neglected and the view that a final status would be reached within three years, on the basis of the will of the Kosovan people, dominated the Kosovar public opinion.

Furthermore, Kosovars were adamant that they had seceded from Serbia in 1999 and therefore expected that the state administration would eventually be handed over to the local institutions. Indeed, a mechanism of dual governance was established in which powers would be transferred from international to local agents, and thus the PISG assumed responsibilities on certain issues (Knoll 2006). The PISG actions, however, remained subjected to the international administration’s supervision, while key powers, including budget control, minorities issues, defense, security, policing, and external affairs remained in the hands of the UN and the SRSG (Goldstone 2002, King and Mason 2006, Sørensen 2009). With the international administration controlling major domains of governance, the Kosovar elites were unwilling to address the responsibilities assigned to them, as they seemed to be tasks of minor importance (King and Mason 2006). Moreover, the two sides—international mission and local actors—often pursued conflicting interests, creating tensions between international officials and local elites (Mulaaj 2011, Sørensen 2009). All this combined with the evident reluctance of the international community to deal promptly with the settlement of the final status, made the Kosovo Albanians see the international administration as an obstacle on the road to their own state (Perritt 2010).

Perhaps in an attempt both to motivate Kosovo Albanians to cooperate in various fields concerning the internal functioning of Kosovo and to allow more time to the international community to handle the future status of Kosovo, the SRSG proposed in December 2003 the “Standards for Kosovo.” The Standards for Kosovo outlined eight areas in which Kosovo had to reach

certain benchmarks that would determine its progress toward European standards. The standards aimed to create a multi-ethnic, democratic society that would be governed by tolerance, freedom of movement, and equal access to justice for all people in Kosovo, specifying the following fields: functioning democratic institutions, rule of law, freedom of movement, sustainable returns of refugees and the rights of communities, economy, property rights, constructive Belgrade-Pristina dialogue, reform of the Kosovo Protection Force (UNMIK/PISG 2003).

The population received the Standards for Kosovo with mistrust, seeing them as an excuse for the international community to continue its rule over Kosovo (Mulaj 2011). These benchmarks were regarded to be subjective and their fulfillment was thought to be more a matter of interpretation than actual achievement of measurable goals (Int. 15, Kursani). Hence, these standards rather than motivating the Kosovars to rebuild the society and work toward the achievement of higher standards of living, only added to their frustration toward UNMIK.

However, UNMIK was playing an important role in favor of Kosovo's successful secession in two ways. First, the international missions on the ground, with their institution-building mandate, actually promoted state-building. Although UNMIK was in Kosovo with a neutral position on Kosovo's final status, by developing state mechanisms the international administration effectively set the foundations for the future efficient function and viability of Kosovo as an independent state. Second, the mere fact that Kosovo was under UN administration instead of Serbian rule provided later strong arguments in the promotion of Kosovo's international recognition. Not few would claim later that the return of Kosovo to Belgrade's control would not be a viable option as Kosovo was *de facto* separated from Serbia and was, with UN assistance, self-administered since 1999. As Belgrade exerted no control over the majority of Kosovo's territory and population, Kosovo was *de facto* a state and consequently by declaring its independence the Kosovo authorities merely officially announced a pre-existing situation. Thus, according to the declaratory theory of statehood Kosovo had achieved statehood by practicing, along with UNMIK, *de facto* sovereignty over the population and territory of Kosovo.

The international administration, therefore, played a substantial role for the future internal viability of Kosovo and also provided arguments for its international recognition. In 2004, however, the Kosovars, obsessed with the achievement of full independence, did not seem to appreciate the benefits of the international presence. By comparing UNMIK with Belgrade and feeling that the international community had turned Kosovo into a colony, the impatience of the local population was growing. Finally, Kosovo erupted in March 2004 when three Albanian children drowned in the Ibar River in Northern Kosovo. This unfortunate event led to a pogrom against Serbs and

other non-Albanian communities, the worst wave of violence the region had experienced since the end of the war.

### THE 2004 RIOTS

On March 17, 2004, news spread rapidly of three Albanian children who drowned the previous day in the Ibar River, allegedly after being chased by Serbs with their dogs. Although no evidence was found supporting these accusations, soon angry Albanian mobs started attacking Serbian neighborhoods, threatening and expelling residents from their houses, burning the buildings after the residents' departure. By that afternoon, the riots had spread through the whole of Kosovo and continued for three days, when they stopped as suddenly as they had begun. The 2004 riots were the worst wave of violence Kosovo had seen since the end of the war. The rapid escalation and the intensity of violence was a brusque reminder to the international community that the issue of Kosovo had to be settled soon, otherwise, stability in the region was in danger.

The riots lasted three days and according to the UN report a total of 19 people died, of whom 11 were Albanians and 8 Serbs, while hundreds were injured. In those three days 4,000 people, mostly Serbs, were displaced. The account of property damage was also tragic, with more than 700 houses belonging to minorities being damaged or burned down. Similarly, public buildings such as schools and hospitals were damaged, as well as several orthodox churches and monasteries, including centuries old UNESCO protected cultural sites (S/2004/348 2004).

Apart from attacks against the non-Albanian population, angry crowds also turned against UNMIK. The frustration with the UN exploded and rioters started vandalizing UN property and setting fire to UN cars (Int. 18, Civil society activist). Rocks and molotov cocktails were thrown toward every symbol of UN administration, slogans against UNMIK were chanted, and UN flags were burned (King and Mason 2006, Perritt 2010). Despite the continuously escalating situation the majority of KFOR commanders chose not to intervene and the riots continued to rage unrestricted (Ints. 9, 10, 18, Civil society activists).

Whether the riots had been spontaneous or previously organized remains a matter of controversy and speculation. The UN report firmly argued that "the onslaught led by Kosovo Albanian extremists against the Serb, Roma and Ashkali communities of Kosovo was an organized, widespread, and targeted campaign" (S/2004/348 2004, 1). On the other hand, eyewitnesses maintain that "it is indisputable that they were spontaneous, at least to a considerable extent" (Perritt 2010, 79). Other witnesses assert that at first the demonstrations were spontaneous, but later as it often happens with riots and

protests someone jumps in and tries to manipulate them for their own interest (Int. 15, Kursani). In addition, the media played an important role in fueling the rage of the rioters. Television shows followed the events live, reporting how many Albanians were dead or injured, urging also the rioters to kick Serbs out, because even in a liberated Kosovo they were still making problems (Int. 15, Kursani).

Regardless of whether the riots were previously organized or not, one of the reasons why they escalated to that level was the longstanding frustration of Kosovo Albanians with the impasse the process of the settlement of their final status had reached. Kosovars had fought for independence throughout the 1990s, first through their peaceful resistance and afterward through their armed insurgency (Int. 18, Civil society activist). They were convinced that NATO intervention, the subsequent withdrawal of all Serbian forces and annulment of Serbian authority meant that they were independent (Int. 14, EU diplomat). Nonetheless, they were prepared to wait for three years, as resolution 1244 stipulated, so that the final status of Kosovo would be determined according to the provisions of the Rambouillet Accords. However, more than three years had passed and their status was still uncertain. In addition, they also noticed the international community's reluctance to deal with the matter quickly, realizing once again that patience and peace would not lead to the fulfillment of their cause.

Their anger was further increased by the low standards of living in Kosovo. Considering the undetermined final status as an important reason that held back economic development, Kosovo Albanians were convinced that as soon as they were independent, Kosovo would attract more investments, unemployment would be reduced, and economic growth would follow (Int. 4, press editor). Thus, in that sense UNMIK was both a barrier on the road toward the establishment of their own state and an obstacle to their economic welfare. In the end, frustration piled up and erupted in the violence of March 2004.

The impact of the riots on the course for the settlement of the final status of Kosovo was enormous. The events served as a "wake up call" for the international community, which, as a result, realized that the existing situation was unsustainable (Int. 11, Malazogu). The process for finding a solution was accelerated, leaving aside the fulfillment of the Standards for Kosovo as a prerequisite for the initiation of the talks for the status (Int. 5, EU diplomat). Therefore, although the EU opined in its 2005 enlargement strategy paper that "Kosovo's institutions still lack the political maturity necessary to build a truly democratic, secure and multi-ethnic society" (European Commission 2005, 8), status talks began later the same year. As King and Mason (2006) very accurately observed "violence had once again advanced the independence agenda as nothing else in the previous five years had" (King and Mason 2006, 191).

## VIENNA TALKS AND THE AHTISAARI PLAN

The March events showed how fragile stability in the region still was. The establishment of sustainable peace, though, had been the primary concern and leading cause of the international community's and in particular the EU's, actions for more than a decade. The EU could not afford to have a source of instability in such close proximity to its borders. Furthermore, failure to ensure peace after such long efforts and millions of euro spent would reflect once again the inefficiency of the international community to deal with such issues. Thus, the West and the EU, not willing to have one more failure on their record, decided to act swiftly, initiating the process for the settlement of Kosovo's final status.

Consequently, the UN Secretary General appointed Kai Eide as Special Envoy to review the situation in Kosovo and draft a report on the situation on the ground. Following his report a decision would be made regarding the process for the settlement of the final status of Kosovo (S/2005/635 2005). Eide's report illustrated a bleak image of Kosovo. He referred to the grave economic situation and the increased cases of illegal economic activities, the absence of rule of law and the inadequate function of the judicial system, as well as to the troubling relations between the Albanian majority and the minorities. Nevertheless, Eide concluded that

There will [ . . . ] not be any good moment for addressing the future status of Kosovo. Determining Kosovo's future status remains—and will continue to be—a highly sensitive political issue with serious regional and wider international implications. Nevertheless, an overall assessment leads to the conclusion that the time has come to commence this process (S/2005/635 2005 §62).

The Council accepted Eide's proposal for the initiation of the process for settlement of the final status and shortly afterwards Martti Ahtisaari was appointed UN Envoy for Kosovo. Although Belgrade insisted that the March events were a clear demonstration of Kosovo's inadequacy for statehood, the Serbian authorities agreed to engage in dialogue with Pristina if the Security Council decided so (Ker-Lindsay 2009a).

The negotiations started in Vienna in early 2006 and lasted for 14 months.<sup>2</sup> The negotiations, being a one-sided process, showed from the very beginning that the West was determined to support an independent Kosovo, excluding the possibility of any other alternative solution (Ker-Lindsay 2009b). Participants in the negotiations confirm that the Kosovo Albanian delegation was assured about the outcome of the negotiations, while Belgrade was put under constant pressure to compromise (Int. 27, Senior UN official). Ahtisaari himself, instead of retaining the role of impartial media-



tor, clarified in the first meeting with the Serbian delegation that Kosovo's independence was inevitable, while later he openly stated that:

The democratic leadership in Serbia today cannot be held accountable for the actions of Slobodan Milošević, but the leaders in Belgrade have to face the heritage and responsibility, because this historical heritage cannot be ignored, but rather must be taken into account in the process of finding a solution for the future status of Kosovo (Ahtisaari 2006).

With Ahtisaari explicitly holding Serbia accountable for past abuses and stipulating that the only appropriate remedy would be Kosovo's independence, every proposal the Serbian side submitted for extensive autonomy was ignored. The members of the Contact Group, except for Russia, endorsed Ahtisaari's stance and repeatedly affirmed that Kosovo would never return to Belgrade's rule (Perritt 2010).

Kosovo Albanians having been assured of the fulfillment of their demands were willing to make significant concessions on matters concerning the status of minorities in Kosovo (Rohan 2007). The Albanian delegation agreed to protect minority rights and provide among others extensive liberties and competences to the communities, guaranteed representation of minorities in the assembly and in the various state institutions, freedom in education, broadcast media and press. They also committed to bound to these terms by drafting a constitution including those measures (S/2007/168.Add1 2007). The constitution and laws were supposed to guarantee the peaceful coexistence on equal basis among the communities and set the foundations for the inter-ethnic stability and future viability of Kosovo.

Serbia, in contrast, being once again under pressure to submit to a diktat, refused to compromise and cooperate. As had happened in Rambouillet, Kosovo Albanians' demands were met, leaving space for Belgrade to negotiate only on issues of secondary importance for them. Hence, with its fundamental demands conclusively rejected, there was no incentive for Serbia to be constructive in a process that would ultimately lead to the official loss of Kosovo.

Throughout the process, Russia remained a firm ally of Serbia. Kosovo was a constant reminder of Russia's humiliation during the Rambouillet process and its inability to prevent the NATO air-offense against Serbia. By 2006, however, Russia under Putin was in a course of re-emerging in the center of international politics and its uncompromising stance was supposed to be a demonstration of this (Antonenko 2007). Also Russia was concerned with the possible effect of Kosovo as a precedent to similar secessionist cases. Being itself confronted with secessionist demands on parts of its territory, Russia was reluctant to support Kosovo to achieve independence without the consent of Belgrade.

Nonetheless, Russia failed to exert the necessary influence on the Contact Group for the finding of a mutual accepted plan. The rest of the Contact Group members remained resolved to end the process as soon as possible according to the plan of an independent Kosovo that would offer extended freedoms to the minority communities. In addition, there was the widespread opinion within political and diplomatic circles that Russia's stance was a bluff. Allegedly, the Russian veto came as a surprise to Ahtisaari who right to the end believed that the Russians would go along with the Security Council resolution (Int. 27, Senior UN official). Indeed, Russia during these months of negotiations had shown periodically some signs of relaxing its stance, urging Serbia to be more cooperative (Ker-Lindsay 2009a). However, expecting that Russia would compromise was overoptimistic, especially at a time when the Bush administration was promoting the expansion of the missile defense shield in Poland and the Czech Republic, a plan that was assertively and repeatedly condemned by Russia as a threat to its security (BBC 2007).

Despite the certainty that Belgrade would reject any plan that would allow Kosovo to secede, Ahtisaari presented his proposal for the future status of Kosovo. The document started with the recommendation that "Kosovo's status should be independence, supervised by the international community," claiming that this was the only viable option for Kosovo (S/2007/168 2007). As expected, Serbia refused to sign and after the failure of the negotiations, a Troika was established to continue the talks, comprising representatives of the United States, Russia, and EU. This renewed round of negotiations had December 10, 2007, as its deadline.

In this renewed round of negotiations, the Troika committed to "leave no stone unturned in trying to find a solution to the Kosovo status question" (DW 2007). Along these lines, the Troika suggested a solution of partition of Northern Kosovo. Northern Kosovo would pass to Serbian control, in exchange for agreeing to the independence of Kosovo (Weller 2009). The proposal, however, was swiftly rejected by both Belgrade and Pristina.

Then the EU representative, Wolfgang Ischinger, proposed a solution based on the West-East Germany experience (Lehne 2009). The two Germans, through a series of bilateral agreements, were able to coexist in international organizations, cooperate, and engage constructively with each other, while not recognizing each other (Childs 1977). Accordingly, Ischinger suggested Serbia and Kosovo regulate their economic and political relations, while temporarily putting aside the dispute over Kosovo's status (Weller 2008a). The plan was rejected by Belgrade, as this model of cooperation implied that Kosovo would be able to pursue international recognition and independent statehood. This would again create a win-win situation for Kosovo, enabling it to enter the UN and be internationally recognized, while Serbia would continue to oppose its secession.

Despite rejecting the Troika's proposals, in this round of negotiations Belgrade was actively engaged in the process, producing concrete ideas for widest autonomy solutions. The Serbian delegation presented a settlement based on the Hong-Kong model, with several possible variations, seeking control only over foreign and defense policy, border control, and the protection of Serbian heritage (Bataković 2014). Belgrade was also willing to allow Kosovo to participate in international organizations and use symbols usually reserved for sovereign states (Ker-Lindsay 2009a, Weller 2008a). Serbia was disposed to offer Kosovo practically everything except for a UN seat and their own armed forces (Bataković 2009). Nonetheless, after the announcement of the Ahtisaari plan, the Kosovo Albanians had no incentive for further negotiations (Weller 2008a).

The meetings with the Troika and the Serbian and Kosovar delegations continued, but they were far from productive. Any possibility of progress, however, was virtually eliminated after US and European officials publicly stated that their countries would recognize Kosovo if it declared independence after the end of the negotiations (Dempsey 2007). Fully confident of the support they enjoyed, the Kosovar delegation refused to negotiate further (Bataković 2009). Consequently, having reached a stalemate, the Troika terminated its operations earlier than the deadline of December 10. In their final report, the United States, Russian, and EU representatives announced that no mutual solution could be found as neither party was willing to yield on the fundamental question of sovereignty over Kosovo (S/2007/723 2007).

Thus, the Vienna negotiations and the Troika talks followed a quite different route from the one the UN Envoy Kai Eide had proposed when he called for the process of a settlement of the final status to begin. Eide had stressed the complexity of the situation acknowledging that the territory in question was still part of a sovereign state. He had called for caution in the negotiations and emphasized that "artificial deadlines should [ . . . ] not be set." He underlined the need for joint participation of all parties and the necessity of a process with a "clear and common picture of the agenda and the implications" (S/2005/635 2005, 70).

The Vienna negotiations, in contrast, were rushed, with artificial deadlines, not following a common agenda agreed by all parties. The talks were expected to finish by the end of 2006 (Woehrel 2006), setting an unprecedentedly short deadline for such negotiations. The matter was believed to be irresolvable from the beginning, assuming that even if the negotiations continued there would be no mutually accepted outcome. The following statement is an indication of the West's hastiness to conclude the negotiations as soon as possible. Belgrade proposed a set of solutions during the Troika talks that

might have appeared sufficiently reasonable to international negotiators to warrant further exploration, had it been made in the context of the Ahtisaari negotiations. Under those circumstances Kosovo would have come under very heavy pressure to defend its insistence on independence. However, after 15 months of Ahtisaari talks, there was little inclination to start again from scratch [...] (Weller 2008a, 1227).

Recalling, however, other cases of contested territories where negotiations had or have continued for years in search of a mutually accepted solution, 15 months of negotiations is an extremely limited time for reaching a comprehensive agreement. Yet, in the case of Kosovo, 15 months of negotiations were considered to be already too long. Even when Belgrade proposed potentially viable solutions in the Troika negotiations, its proposals were again dismissed as being put forward too late.

However, the primary purpose of the negotiations was not the finding of a mutually accepted solution for the status of Kosovo. It was rather to provide the justification that all means for the achievement of a mutually accepted solution had been employed and failed (Ints. 16, 27 Senior UN officials). Kosovo's independence was a pre-determined necessity. Nonetheless, the conduct of negotiations was necessary in order to claim afterwards that all means to reach a consensual settlement were exhausted, providing the final argument for major Western powers to recognize the independence of Kosovo (Int. 16, UN official).

A further purpose of the negotiations was to settle the status of Serbs in Kosovo. One of the predominant reasons why the West so actively promoted Kosovo's secession was to enhance stability in the region. Stability, though, would be impossible in an internally unstable Kosovo. Thus, the Kosovo Albanians, accepting that this was the price they had to pay for independence (Rohan 2007), agreed to provide extended liberties and protection of minority rights, so that events such as the ones of 2004 would not be repeated (Int. 11, Malazogu). To what extent the agreed measures have actually been implemented in an independent Kosovo will be discussed in the following chapters.

## CONCLUSION

Following the NATO intervention, Kosovo was placed under international administration led by UNMIK. This was an important step toward Kosovo's secession, but this was not enough to lead to the declaration of independence in 2008. Other events accelerated this process, in particular the March riots of 2004 and the subsequent Vienna negotiations. As it happened in the previous decade also in the years 1999-2008 changes at four levels affected the outcome of Kosovo's secession.

Kosovo's position under international administration had an impact both at local and state levels. At the local level, the international administration promoted the development of institutions, necessary for the internal viability of a future independent Kosovo. At the state level, the UN-led administration suspended and eventually permanently revoked Serbia's sovereignty over Kosovo, creating a *de facto* seceded entity.

Another event that took place at the local level and affected Kosovo's secession was the riots of 2004. The magnitude of violence created fears that a possible repetition of such an enormous wave of protests not only would be destructive for the international administration in Kosovo, but that would also potentially create a domino effect at the regional level. Thus, procedures were accelerated for the finding of a permanent settlement that would guarantee peace and stability in the region.

This led to global-level negotiations including participants from local, state and global levels. It was clear from the beginning that the only possible outcome was the secession of Kosovo promoted as the sole solution that would produce a permanent settlement sufficient to ensure stability at the regional level. The very conduct of negotiations provided the argument that all means available to settle the conflict had been exhausted and therefore there was no other viable solution short of the secession and the recognition of Kosovo as an independent state.

The negotiations showed again how global dynamics affected the outcome of Kosovo's secession at the local level. Serbia was supported by Russia, which although a re-emerging global power was unable to exert enough influence on the Contact Group. The Contact Group members, on the other hand, could unilaterally accept the Ahtisaari plan and, as will be shown in the next chapter, proceed to the recognition of Kosovo as an independent state resulting in the *fait accompli* of its secession.

## NOTES

1. Rugova's government alarmed by the KLA's rise created in 1998 the Armed Forces of the Republic of Kosovo (Forcat e Armatosura të Republikës së Kosovës—FARK), an armed wing of the LDK (Strategic Comments 1999).

2. For a detailed review of the negotiations, see: Perritt (2010), Ker-Lindsay (2009a), Weller (2008a), Weller (2008b), Weller (2009), Fridl (2009), Ahtisaari (2008).



## *Chapter Five*

# **Kosovo toward External Recognition**

Kosovo proclaimed independence on February 17, 2008. Serbia immediately declared Kosovo's declaration illegal and pledged to employ all non-violent means possible in order to prevent a *fait accompli* (Bataković 2014). Russia, China, and five EU member states—Spain, Greece, Cyprus, Slovakia, and Romania—considered Kosovo's unilateral act a breach of international law and called for a solution based on mutually accepted agreement (UN SC SC/9252 2008). The United States and the majority of the EU countries, however, accepted Kosovo's independence and quickly recognized it as a sovereign and independent state.

Kosovo is currently recognized by 114 UN member states (September 2017), a number of recognitions far greater than other cases of contested secession have achieved. Kosovo's participation in international and regional organizations is also growing, while it has made the first steps toward European integration with the signing of the Stabilization and Association Agreement (SAA) (European Commission 2015b). Relations with Serbia are gradually improving through an EU-facilitated dialogue, the first phase of which was successfully concluded with the signing of an agreement (EEAS 2013).

Despite this progress Kosovo remains a contested state. Its admittance in the UN is blocked by Russia and China, two permanent Security Council members with veto powers. The veto would be lifted if Serbia recognized the independence of Kosovo; this way its secession would no longer be considered as a breach of territorial integrity, but would constitute a negotiated agreement between a state and a separatist entity, leaving little room for objections by third party states. As long as Serbia refuses to recognize Kosovo, though, it is difficult—"although not impossible"—that these states change their stance and allow Kosovo's entrance in the UN.

In addition to those practical issues, a theoretical and legal debate followed Kosovo's secession and recognition, regarding whether it is a unique case or a dangerous precedent for international relations. Some indicative arguments of both sides are mentioned in this chapter along with a short presentation of the advisory opinion of the International Court of Justice (ICJ) vis-à-vis the legality of Kosovo's declaration of independence.

### KOSOVO DECLARES INDEPENDENCE: FIRST REACTIONS

The Serbian parliament immediately condemned the unilateral declaration of independence of Kosovo and rejected it as an unacceptable violation of international law. The Serbian parliament reaffirmed its adherence to Resolution 1244 as the only document defining the status of Kosovo, until a mutually accepted solution has been reached. As a sign of protest Belgrade temporarily recalled its ambassadors from all states that recognized Kosovo's independence (Bataković 2014).

Serbia, excluding the option to use force or enforce economic sanctions against Kosovo, decided to follow the diplomatic route and seek an advisory opinion from the International Court of Justice (A/63/PV.22 2008). Bringing the matter to the United Nations General Assembly, Serbia's delegation persuaded the necessary number of UN member states to submit a relevant enquiry to the ICJ (UNGA/10764 2008). Consequently, the ICJ received in October 2008 the request to provide an advisory opinion on the question "Is the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo in accordance with international law?" (ICJ 2010, 8). The ICJ agreed to examine the question and delivered an advisory opinion two years later in 2010. How the ICJ opined and what the implications were of this decision for Kosovo's successful secession will be discussed later on.

Russia similarly condemned the unilateral declaration of independence. Calling for an emergency Security Council meeting after Kosovo announced its independence, the Russian representative declared that this act was illegal and a blatant breach of the norms and principles of international law that would eventually undermine peace and security in the Balkans. Stressing that this act would constitute a dangerous precedent and could have destructive consequences for international relations in general, the Russian representative asked for the unilateral declaration of independence to be proclaimed null and void and called for a lawful solution based on agreements between Belgrade and Pristina (UN SC SC/9252 2008).

Likewise, the Chinese representative opposed Kosovo's unilateral action and expressed concerns about a potential revitalization of conflict in the region. Considering the negative implications that a unilateral action may



have for peace and stability he asked for continuation of fruitful and honest negotiations between the parties. Also, similar to the Russian representative, the Chinese envoy stated that this act would constitute a serious challenge to the fundamental principles of international law, urging once more the parties to continue the pursuit of a mutually acceptable solution through political and diplomatic means (UN SC SC/9252 2008).

In contrast, the United States recognized Kosovo with enthusiastic words and congratulated its leaders and citizens for this decision. The United States announced that this decision was an important step toward Kosovo's democratic and national development, while it also welcomed Kosovo's commitment to the implementation of the Ahtisaari proposals (Bush 2008). Furthermore, the US Secretary of State, Condoleezza Rice, clarified that the recognition of Kosovo is based on a specific combination of factors, including the context of Yugoslavia's breakup, the previous crimes against civilians and actions of ethnic cleansing, as well as the extended period of UN administration. Rice emphasized that because of the previous combination of factors Kosovo constitutes a special case and cannot be seen as a precedent for any other situation in the world (Rice 2008).

The British representative to the Security Council also asserted that Kosovo is a *sui generis* case, deriving from the breakup of the former Yugoslavia, affirming that its secession created no precedent. He supported that it was Resolution 1244 that had committed the unprecedented act to remove the authority of a sovereign state over a part of its territory—the power of Belgrade over Kosovo—and not the declaration of 2008. He also claimed that through Resolution 1244 it was officially recognized that the respect for human rights in Kosovo and the stability of the region could only be secured if Serbia did not exercise control over Kosovo, which rendered Kosovo's secession inevitable. The British representative also reaffirmed that the only way forward that would adequately ensure the overriding priority of peace and security in the region was the implementation of the Ahtisaari plan, stressing the importance of respect for minority rights as a parameter that would determine Kosovo's future (UN SC SC/9252 2008).

Similar were the stance and arguments from the rest of the Contact Group countries. France reiterated the uniqueness of Kosovo's situation, being the last chapter of the dissolution of Yugoslavia, a position that was also repeated by the German Minister of Foreign Affairs (UN SC SC/9252 2008, Die Zeit 2008). France and Italy both declared that after the exhaustion of all means the only option that would ensure stability in the region was the implementation of the Ahtisaari plan and the eventual integration of both Serbia and Kosovo in the European mechanisms (Sarkozy 2008, UN SC SC/9252 2008).

The majority of EU member states, 27 at that time, recognized Kosovo's independence, repeating similar arguments to the above. The context of the

breakup of Yugoslavia, the human rights violations that occurred during the 1990s, the exhaustion of all other means, the unsustainability of the current status, and the imperative need of stability in the region were the predominant arguments employed (inter alia, Ints. 7,13,14, EU Diplomats).

Nevertheless five EU member states refused to recognize Kosovo's statehood. Cyprus, Greece, Slovakia, Spain, and Romania opposed Kosovo's unilateral secession as a violation of international law that would constitute a dangerous precedent in international relations (Vallely 2008). Although the arguments that these countries expressed publicly revolved around the adherence to international law, the position of those states is also a result of latent domestic issues these countries confront and which could potentially take a problematic turn with Kosovo's precedent. In the case of Cyprus and Greece, their unwillingness to recognize the unilateral secession of Kosovo is understandable when considering the still unresolved issue of the Turkish Republic of Northern Cyprus (TRNC). Similarly Spain is concerned with separatist demands expressed by the Basque and Catalan communities and avoids any kind of endorsement of unilateral acts that could potentially harm its territorial integrity. Finally, Romania and Slovakia also deal with internal minority issues that could potentially deteriorate through an official endorsement of a secessionist act (Int. 5, 12, 25 EU Diplomats).<sup>1</sup>

Even though the EU failed to officially adopt a coherent approach regarding the recognition of Kosovo, its member states were able to agree on collective actions. The EU was able to decide on the deployment of a mission in Kosovo that would assist the UN in the field of rule of law and maintain at the same time respect for Resolution 1244, opening the way for the European Union Rule of Law Mission in Kosovo (EULEX) to be established shortly after the unilateral secession of Kosovo (Gow 2010).

The reaction of the UN member states to Kosovo's unilateral secession shows that both recognizing and non-recognizing countries were concerned with the potential future implications of Kosovo as a precedent. Recognizing countries hastily affirmed that they regarded Kosovo as a *sui generis* case and presented arguments supporting the uniqueness of Kosovo's situation. In light also of the assumption that many of the recognizing countries deal to some extent with their own secessionist movements, the position that Kosovo could not be used as an example for other cases was widely repeated. Non-recognizing countries chose the safe option to oppose Kosovo's unilateral act as a violation of international law. Worried that the Kosovo incident would open Pandora's Box and lead to a serious undermining of the principle of territorial integrity, these countries abstained from endorsing its secession. As expected, this divergence in approaches also sparked a feverish academic debate on whether Kosovo constitutes a precedent or not.

## KOSOVO AS A PRECEDENT: OPPOSING VIEWS

The aftermath of Kosovo's unilateral declaration of independence and the immediate widespread international recognition it received sparked a debate on whether Kosovo constitutes a precedent for other secessionist cases. Policy-makers and scholars were divided on the issue, with many supporting the idea that despite assurances of uniqueness, inevitably Kosovo would encourage other secessionist movements to declare independence. Other academics, however, argued that Kosovo indeed presented a unique combination of elements that convincingly justifies its unique treatment.

In more detail, scholars who claimed that Kosovo will inevitably be used as an example reminded that there are several similar cases of secessionist demands around the world. Some of those cases have succeeded in creating *de facto* states, such as South Ossetia, the TRNC, and Nagorno-Karabakh, but have received limited or no international recognition. Ker-Lindsay (2011, 2013), for instance, referred to other cases that share similarities with Kosovo, but have failed even to create *de facto* states, mentioning Iraqi Kurds who suffered discrimination and human rights abuses under Saddam Hussein and Vojvodina, which shared the same status as Kosovo in the former Yugoslavia.

Caspersen (2008, 2013) and Cheterian (2012) examined the effects of Kosovo's secession on the frozen conflicts in Caucasus and argued that Kosovo's recognition introduces a new dynamism in the region. Implying that Kosovo's case is far more successful than the cases in the examined region, Caspersen expressed the view that the Kosovo example can lead to an increase of the rigidity of the position of all conflicting parties, potentially leading to a violent escalation. However, Caspersen also identified a potentially positive aspect of Kosovo's precedent. Taking into consideration that Kosovo was placed under supervised independence, allegedly conditional upon the strengthening of democratic rule, multilateralism, and respect of minorities and human rights, Caspersen maintained that this could perhaps constitute an incentive for *de facto* states to turn more democratic and abandon authoritarian rule. Kosovo, therefore, may produce a negative precedent for international relations, but it could also induce positive changes to the internal governance of entities demanding secession.

Another interesting argument was proposed by Vrbetic (2013) who likewise posited that Kosovo would be a source of inspiration for other secessionist movements and asserted that Kosovo constituted a bad model of conflict management. In the case of Kosovo a Security Council resolution that repeatedly affirmed the territorial integrity of a state was placed aside when negotiating the final status of the territory in question. Such a precedent could only undermine the trustworthiness of other interim agreements that

foresee the establishment of provisional international administration turning states more reluctant to agree to such terms of conflict settlement.

At the other end of the spectrum, Fabry (2012) maintained that Kosovo's precedent might have encouraged aspirations of various secessionist groups and that it created a permissive environment for Russia to recognize two of them, referring to South Ossetia and Abkhazia in 2008. He also acknowledged that this would have probably not occurred if Kosovo's unilateral secession and recognition had not taken place. Nonetheless, the limited number of recognitions those two entities have achieved indicates that these cases have not marked the abandonment of the post-decolonization and post-Cold War norm of non-recognition of unilateral secessions.

In the same vein, Jia (2009) argued that Kosovo can be used as an example for similar demands only if the aspiring secessionist movement fulfills all conditions present in Kosovo. Hence, the population of the seceding entity should fully support secession and have a history of suffering past human rights abuses, while the secessionist entity should be a former member of a disintegrated state, in which it had distinct administrative boundaries and enjoyed equal representation in the federal bodies. In addition the seceding entity should have a history of international administration and at the time of the secession it should demonstrate developing democratic structures (Malazogu 2007).

Additionally, Watson (2008) maintained that Kosovo was the last phase of the disintegration of Yugoslavia. As such, by definition Kosovo is a unique case, because it was the last of the administrative units of Yugoslavia that demanded independence. Moreover, Roseberry (2013) asserted that what makes Kosovo a unique case is that recognizing countries clearly stated that the people of Kosovo had the right to independence also because the past abuses they suffered under Serbian rule reached the level of ethnic cleansing or genocide. Roseberry claims that by setting the threshold as high as genocide, the recognizing countries removed this right from other entities that suffered discrimination, but not ethnic cleansing or genocide. Finally, Borgen (2008) highlighted the fact that Kosovo was under international administration for almost ten years. Thus, Kosovo was, first, already *de facto* independent from Serbia and its return to being ruled by Belgrade would be neither a viable nor a possible solution. Second, the presence of international administration on a territory wishing to secede constitutes an unusual element that the majority of secessionist entities do not possess,<sup>2</sup> rendering thus Kosovo's case unique.

Admittedly each side presented logical arguments. There are indeed several cases around the world that share similarities with Kosovo. For instance, South Ossetia and Abkhazia both demand independence from Georgia since the USSR collapsed (People's Assembly of the Republic of Abkhazia 1999, Supreme Council of the Republic of South Ossetia 1991). South Ossetia was

an autonomous region and Abkhazia an autonomous province in Georgia during the time of the USSR (Toal 2008). Georgia was a constituent republic of USSR, having thus similar status with Serbia in Yugoslavia. Following the *uti possidetis* principle after the dissolution of the initial structures, Georgia and Serbia had the right as constituent entities to establish their own states as successor states of the former Soviet Union and Yugoslavia respectively (Ratner 1996, Conference on Yugoslavia 1992). This right was not extended to the autonomous provinces within the republics. Similarly, neither Chechnya-Ingushetia nor Nagorno-Karabakh were granted independence, although they reported a history of repression and mass atrocities from their parent states, Russia and Azerbaijan respectively (Parliament of the Chechen Republic 1992, Joint Session of the Nagorno Karabakh Oblast and Shahumian regional councils of people's deputies 1991). By recognizing Kosovo, however, and violating the *uti possidetis* principle the way might have opened for other entities such the above to demand independence.

Furthermore, the TRNC is a *de facto* state created through a military invasion conducted to protect the rights and the physical safety of the Turkish Cypriots (Tocci 2003, Yakinthou 2012). In this respect, it shares similarities with Kosovo in the sense that a state—Turkey—or a coalition of states—NATO—conducted a war on humanitarian grounds against a sovereign state, Cyprus and Serbia respectively, and resulted in the separation of a part of the parent state's territory and the creation of a *de facto* state. Thus, if Kosovo is accepted in the international system on the basis of the human rights violations it suffered and/or the previous status it enjoyed in the former structure, then there are also other entities that fulfill those standards and might be eligible for recognition.

Nonetheless, despite the similarities these cases share with Kosovo, they also present some important differences. For example, while Kosovo initially pursued a peaceful way for the accommodation of its demands, Chechnya hardly engaged in any attempts for a negotiated accommodation. In addition, Kosovo made significant steps toward the establishment of a functioning state, whereas during its period of *de facto* independence, the Chechen government failed to build viable institutions of an independent state (Charney 2001).

In the case of TRNC, the latter was not a pre-existing territorial entity within the Republic of Cyprus, in contrast to Kosovo, which was an autonomous province in Serbia. In addition it is questionable whether the military intervention and the creation of a state was the only viable solution possible (Tocci 2003), as was argued in the case of Kosovo.

Also Kosovo enjoyed a peculiar autonomous status with enhanced rights in the institutions of the former Yugoslavia, different from the status the other cases had in the USSR. It had representation and a vote in the federal bodies of Yugoslavia, as well as its own constitution, assembly and territorial

defense forces as the other republics (ICJ 2009). That is why it is often called a “virtual republic” or a republic “in all but name” (Mertus 1999, Dannreuther 2001).

Vojvodina was put forward as a case that shared similar status with Kosovo as virtual republic in Yugoslavia, but never achieved independence. Vojvodina, however, never declared independence or expressed demands for independent statehood. Its ethnic composition is also different to Kosovo. In Kosovo the vast majority of the population is ethnic Albanian, whereas Vojvodina is an ethnically heterogeneous region, with Serbs to constitute approximately 60 percent (Stojšin 2015, Judah 2010). It is, therefore, debatable whether Vojvodina’s population would desire secession in the first place.

Moving on to the argument that Kosovo is a *sui generis* case, this is founded primarily on the assumption that Kosovo combined certain elements that make its case unique. These elements turned into criteria that other cases had to meet in full in order to receive the same treatment as Kosovo. The problematic aspect of this claim is that the criteria set by Kosovo derive from the case itself. There were no previous conditions that Kosovo had to fulfill in order to achieve recognition by other states. On the contrary, after Kosovo unilaterally declared its independence, the recognizing countries tailored criteria that fit the case and justified its uniqueness. Similarly then, by advocating Kosovo’s uniqueness according to conditions set a posteriori and that specifically addressed a certain case, the recognizing countries potentially opened the way for other “unique cases” to emerge according to circumstances (Ker-Lindsay 2013).

Furthermore, the view that Kosovo was the last part of the disintegration of Yugoslavia can be contested when considering the *uti possidetis* principle at the time of its collapse. Kosovo was not examined by the Badinter Commission along with the Yugoslav republics and was not qualified to be among the successor states, as at the time of Yugoslavia’s disintegration Kosovo was a Serbian province and beforehand it had never reached the status of a republic (Conference on Yugoslavia 1992). The recognition, thus, of Kosovo as being a chapter of the disintegration of Yugoslavia may not only not be an argument of uniqueness, but in contrast, it may trigger other entities to declare independence from the current states where they belong, referring for example to the possibility of Republika Srpska materializing its threats for separation from Bosnia-Herzegovina. Bosnia’s decision not to recognize Kosovo in light of the potential disastrous effects such an action could have for the federation shows the latent precedential effects Kosovo’s secession may have for still unsettled former Yugoslav issues (Int. 30, Non-EU Diplomat).

Finally, the argument that Kosovo Albanians had been victims of genocide is not entirely supported. Although Kosovo Albanians undeniably suffered human rights violations and constant harassment throughout the 1990s,

with the level of violence to escalate during the NATO air-offensive to ethnic cleansing, the UN-Supervised Supreme Court in Pristina ruled that genocide had not occurred by Serbian forces (BBC 2001). Ethnic cleansing, on the other hand, which certainly took place during the NATO bombardment is a phenomenon frequently observed in wars and claims of past of ethnic cleansing can be found in the majority of separatist conflicts (Mann 2005).

All in all, convincing arguments and counter-arguments were presented by all sides. It is not the purpose of this book to take a firm position on this debate. It will follow, the middle route, accepting, on the one hand, that up to now Kosovo has not been used successfully as an example for similar separatist cases. Some of those cases while having created *de facto* states, and in some cases fairly successful *de facto* states, were not able to effectively use the case of Kosovo as a precedent to further their goals. Even South Ossetia and Abkhazia, which are supported and recognized by Russia, have managed to achieve official recognition by only four states. This single-digit number comes in stark contrast to the 114 recognitions Kosovo already has. Hence, for the moment Kosovo seems to have maintained the status of a unique case. Nonetheless, this status has been possible only because of the one-sided balance of power in the international system in 1999 at the time when Serbia's authority over Kosovo was revoked. This unipolarity that followed the collapse of the USSR has diminished and although the US remains the most influential country in the world, other powers have emerged. What this means is that more Kosovos may occur in the future, if coalitions of influential powers are created supporting a separatist entity.

## ICJ'S DECISION ON THE LEGALITY OF KOSOVO'S UNILATERAL DECLARATION OF INDEPENDENCE

The ICJ finally announced its long-awaited opinion in July 2010. However, the ruling did not live up to the expectations of the parties involved. The judges opted for a very narrow interpretation of the question, deciding that:

the adoption of the declaration of independence of 17 February 2008 did not violate general international law, Security Council resolution 1244 (1999) or the Constitutional Framework. Consequently the adoption of that declaration did not violate any applicable rule of international law (ICJ 2010, 122).

At first glance, the ICJ ruling seems to endorse the Kosovar position as it explicitly states that the declaration did not breach international law. Accordingly, Kosovo's government and citizens received the ruling with enthusiasm, while its president, Fatmir Sejdiu, urged all non-recognizing countries to recognize Kosovo as an independent and sovereign state (McElroy 2010).

In contrast, Serbian president, Boris Tadić, reiterated Serbia's position that they would "never recognize the unilaterally-declared independence of Kosovo" and called for resumption of talks over the status of Kosovo (Lowen 2010).

On a closer look, though, the Court by exactly and narrowly answering the question it received, produced an opinion that neither condemned nor endorsed Kosovo's independence (Vrbetic 2013). The Court opined that "general international law contains no applicable prohibition of declarations of independence" (ICJ 2010 §84). Taking into consideration that secession is not prohibited under international law (Crawford 2006) and that international law does not regulate the dissolution of states (Bothe 2010), the Court merely reiterated that since there is no applicable law, then there is also no violation of it.

In addition, the Court clarified that the question was specifically on whether or not the declaration of independence was in accordance with international law. Thus, the issue of whether or not Kosovo has achieved statehood was beyond the scope of the question. The Court also added that the question did not concern the validity or any legal effects of the recognition of Kosovo by those states that had already recognized it (ICJ 2010 §51). Finally, the Court decided that debates on the extent of the right of self-determination and the existence of any right of "remedial secession" were also beyond the scope of the question and therefore the Court would not address those either (ICJ 2010 §83).

The Court then literally concluded that it is not illegal for an entity to declare independence. The decision entailed neither political interpretation, nor validation of Kosovo's statehood. As such, the ICJ's ruling ultimately did not offer any major contribution to either the specific issue of Kosovo, or to the general understanding of secession and state creation (Hannum 2011, Gallucci 2010). Similarly, it provided no particular guidance to the countries waiting for its decision, and its impact on Kosovo's future and on other similar unresolved conflicts around the world was not as influential as was initially expected (Jamar and Vignes 2010). The supporters of Kosovo, the United States and leading European countries continued to advocate for Kosovo's recognition, while Russia, China, and the five non-recognizing EU countries held firm to their position (Economides, Ker-Lindsay, and Papadimitriou 2010).

## KOSOVO'S INTERNATIONAL RELATIONS: PROGRESS AND SHORTCOMINGS

In almost ten years of independence, Kosovo has significantly progressed in its international affairs. With the constant efforts of the supporting countries,



Kosovo has managed to be recognized by 114 UN member states as an independent and sovereign state. The supporting countries strongly promoted Kosovo's statehood worldwide, persistently lobbying in favor of its recognition and its participation in international and regional organizations (inter alia, Ints. 5, 7, 14, EU Diplomats).

In addition to traditional diplomacy Kosovo has extensively used public diplomacy to promote its goal. Public diplomacy refers to cases in which foreign policy institutions target wider political audiences, including civil society (Krasniqi 2016a). Having to struggle with incomplete international recognition, Kosovo engaged in several public diplomacy efforts, including a nation branding campaign "The Young Europeans," where CNN advertisements called the investors to invest in Kosovo as the youngest European state, as well as an initiative called "Kosovo Calling" that engaged policy-makers and intellectuals, public figures and politicians from the countries that have not recognized Kosovo (Kosovo Calling 2012).

Kosovo has also been admitted as a member in a number of international organizations, among others the World Bank (World Bank 2009), the International Monetary Fund (IMF 2009), the Regional Cooperation Council (RCC 2013), and the Council of Europe Venice Commission (Council of Europe 2014), as well as in various sports organizations, including the International Olympic Committee (IOC 2014). Interestingly, the International Olympic Committee declared in its statement announcing Kosovo's admission that Kosovo fulfilled the requirements for participation as outlined in the Olympic Charter, including the condition of being a "country" defined as "an independent State recognized by the international community" (IOC 2014).

Despite not recognizing Kosovo's independence, China, Russia, Slovakia, Romania, and Greece maintain liaison offices in Pristina. Admittedly, the Russian liaison office, although demonstrating a level of engagement in Kosovo, is established there mostly as a mechanism to observe the situation on the ground (Ker-Lindsay 2015). The liaison offices of the other countries, however, operate as embassies, maintaining close relations with local elites and politicians. Moreover, Greece, Slovakia, and Romania, acknowledging the need for regional stability and prosperity support Kosovo's regional integration and further European perspective, while Greece went a step further agreeing to the establishment of an Economic and Commercial Affairs Office of Kosovo<sup>3</sup> in Athens (Hellenic Republic MFA 2015). All three countries have eventually recognized Kosovo's passport as a valid form of identification (Kosovo MFA 2012, Selimi 2015, Kosovo MFA 2014). Finally, all three countries with their capacity as members of the EU support Kosovo's institution-building process through EULEX (EULEX 2015), while Romania and Greece are among the 31 troop contributing countries of KFOR (KFOR 2014).

Furthermore, in April 2015 the European Commission adopted the proposal for the signing of the Stabilization and Association Agreement (SAA) between Kosovo and the EU, which entered into force on April 1, 2016. On the occasion of it coming into force the High Representative/Vice President Federica Mogherini stated that “this agreement opens a new phase in the EU-Kosovo relationship and represents an important contribution to peace, stability and prosperity in Kosovo and the region at large” seconded by Commissioner Johannes Hahn, who said that “this agreement is a milestone for the EU-Kosovo relationship: it will help keep Kosovo on the path of reform and will create trade and investment opportunities” (European Commission 2016b). The SAA is the first contractual relation between the EU and Kosovo, which once implemented will allow Kosovo to enjoy and benefit from the EU’s policies for the Western Balkans, providing a framework for political dialogue and cooperation in various sectors, such as justice, trade, education, employment, energy, and environment (European Commission 2015b).

However, Kosovo did not demonstrate the desirable progress regarding the signing of the visa liberalization agreement with the EU. Kosovo’s citizens, unlike other countries in the Balkans, need visas to travel to the EU. Upon the signing of the visa liberalization agreement Kosovans will not need one for visits of up to 90 days to all EU member countries. This would have signaled a major change on freedom of movement for Kosovo’s citizens, especially the youth, who feel trapped and isolated (Ints. 4, press editor, 18, Civil society activist). The European Commission’s decision for visa liberalization for Kosovo in 2016 was, therefore, anxiously anticipated. The European’s Commission progress report confirmed that Kosovo has fulfilled almost all requirements of the process, including areas on readmission, reintegration, document security, boundary management, migration management, asylum, law enforcement, judicial cooperation, data protection, and freedom of movement (European Commission 2016a). However, Kosovo will have to proceed with the border demarcation with Montenegro ratifying the relevant agreement and strengthen its track record in the fight against organized crime and corruption, before it can be transferred to the visa-free list (European Commission 2016a, 9).

In spite of Kosovo’s remarkable course toward uncontested statehood, its progress seems to have stalled. The ongoing conflicts in the Middle East and the institutional crisis within the EU have pushed Kosovo off the agendas of powers that have fiercely championed in favor of its independence. In addition, the independence referenda in Iraqi Kurdistan and Catalonia only deteriorate Kosovo’s path to recognition. The conduct of independence referenda strengthen the position of those who advocated that Kosovo will provide a dangerous precedent in the future. Such referendum taking place in Spain, an EU country that has opposed Kosovo’s secession in light of its potential

influence in other separatist attempts may pose a significant drawback for Kosovo's international acceptance.

The economic crisis in the Eurozone, growing euroscepticism within the EU countries and Brexit complicate the issue further by shifting the focus of the Union further away from the Balkans and the integration process. Euroscepticism has changed the attitude of member states toward further enlargement making more and more countries reluctant to put forward an issue that does not enjoy widespread public support (Ker-Lindsay 2014). With Brexit, Kosovo will be losing a strong ally within the EU. With no doubt, UK-Kosovo cooperation will continue through bilateral agreements and at international organizations. Nevertheless, UK's exit from the EU will weaken support for Kosovo, in particular when it comes to pressuring Serbia with full normalization of relations in return for EU integration (Krasniqi 2016b). Also should the prospect of EU integration fade, Serbia would have one incentive less to make concessions toward the normalization of relations.

This leads to the actual barrier toward Kosovo's uncontested statehood. The elephant in the room is Serbia and its refusal to recognize Kosovo's secession. As was recently demonstrated by Kosovo's failed attempt to join the UNESCO, Serbia with the backing of Russia, has proven itself to be a formidable opponent against Kosovo's integration in UN bodies.

## RELATIONS WITH SERBIA

One of the most important steps toward Kosovo's international acceptance, if not the most important one, is the normalization of its relations with Serbia. An official international recognition by Serbia would turn its secession from unilateral to mutually accepted, opening the way for UN membership and uncontested statehood. Serbia is also under pressure from the EU to normalize its relations with Kosovo. The settlement of the issue of Kosovo is a prerequisite for its admission to the Union, as indicated in chapter 35 of the accession process.<sup>4</sup> Given also the importance and the complexity of this matter, this chapter is to be opened first and progress is required throughout and in parallel with the progress in the other chapters (European Commission 2014). Therefore, the settlement of the issue of Kosovo is of primary importance if Serbia wishes to join the EU.

For the normalization of relations between the two parties, the EU facilitated a high-level dialogue between Belgrade and Pristina, which resulted in April 2013 in a landmark agreement (EEAS 2013). Even though the high-level dialogue and the signing agreement<sup>5</sup> do not constitute formal recognition by Serbia, the agreement includes various provisions that regulate their relationship as being interstate. More specifically, Article 14 specifies that "neither side will block, or encourage others to block, the other side's

progress in their respective EU path” (Brussels Agreement 2013), while measures decided in the frame of technical agreements foresee progress in the field of freedom of movement, regional representation, integrated boundary management (IBM), and the appointment of liaison officers (Republic of Serbia 2015).

Progress has been observed in some of the agreed areas. In the field of freedom of movement, residents with Serbian and/or Kosovo identity cards are allowed to enter and exit both Serbia and Kosovo (European Commission 2014). Serbia, thus, recognizes Kosovo-issued documents as valid forms of identification. In the area of boundary management, six interim joint crossing points were established, while the exact location and layout of the permanent ones have been agreed (European Commission 2014). Elections were held in the whole territory of Kosovo, including Northern Kosovo. In addition, the units of the Serbian Ministry of Internal Affairs (MUP) in Northern Kosovo have begun to dismantle and integrate into the Kosovo ones (Bjeloš, Elek, and Raifi 2014).

The Brussels Agreement was the first result of the EU-facilitated dialogue for the settlement of the Kosovo issue. The discussions have resumed in February 2015 and progress has been seen in certain areas. Lately, the presidents of Serbia and Kosovo confirmed the Justice Agreement will be fully implemented on October 17, 2017. On that day, judges, prosecutors, and judicial staff will be integrated into the Kosovo Judiciary. The presidents also agreed to start working on a new phase of the Dialogue (EEAS 2017).

Furthermore, Serbia’s role in facilitating Kosovo’s participation in the South-East Europe Cooperation Process (SEECPP) was constructive, as it was in the case of Kosovo’s request for participation in the Regional Cooperation Council (RCC) (European Commission 2014, Republic of Serbia 2015). Finally, the system of liaison officers is in place and several official visits have been organized, which the Serbian government reports were unfolded “without a single problem and in excellent cooperation” (Republic of Serbia 2015, 19).

Nevertheless, strong contradictions exist between words and deeds. On the one hand, Serbia refuses to recognize Kosovo. On the other hand, they engage in negotiations that resemble interstate agreements in both content and level, which shows a *de facto* recognition of Kosovo’s independence. Serbia refuses to recognize Kosovo, although Serb politicians and policy-makers know well enough that Kosovo is lost and they need to settle this issue and move forward with the EU accession (*inter alia*, Ints. 27, Senior UN Official, 26, 34, Civil society activists). Although Kosovo and Serbia have reached many agreements, including the one on Kosovo’s regional representation, the word “Kosovo” should be accompanied with an asterisk and a footnote referring to status neutrality.<sup>6</sup>

Moreover, Serbia vehemently opposed Kosovo's bid to join UNESCO in 2015. Kosovo's citizens and politicians considered the entry into UNESCO to be a strategic step toward UN membership. Membership in UNESCO was meant to signal a new era in Kosovo's foreign policy and a shift from individual recognitions to membership in international organizations (Krasniqi 2016a). However, Serbia with Russia's backing successfully lobbied against it. In spite of the support Kosovo enjoyed from the major Western countries its application fell short by three votes to obtain the necessary numbers of votes. Close as it might have been, failure to join UNESCO was a big setback for Kosovo's foreign policy.

All in all, the relations with Serbia are stable and demonstrate some progress, which admittedly is remarkable when considering the recent past. Serbia not only lost the war in 1999, but it was in front of a pre-determined outcome in the 2006 negotiations. Now once again Serbia knows that in order to join the EU they need to make concessions on the issue of Kosovo, including eventually its official recognition. Such a decision will yield a significant historical and emotional cost for Serbia. Serbia, therefore, seems to be determined, first, to make recognition as difficult as possible for Kosovo while not estranging the EU, and second, as will be shown in the next chapter, to try to make the most out of the Pristina-Belgrade dialogue as regards the representation and the rights of Kosovo Serbs in the Kosovan structures.

## CONCLUSION

In ten years of independence Kosovo has made significant progress toward international acceptance. By September 2017 it has been recognized by 114 UN member states, an impressive quantity of recognition considering that it is an outcome of a unilateral act. Furthermore, Kosovo has entered a number of international organizations, while its participation in regional and sport organizations is growing. Kosovo has also established cooperative relations with non-recognizing countries, which support Kosovo's state-building process and regional integration. Kosovo, thus, although not fully recognized is not excluded regionally and internationally, while the signing of the SAA agreement with the EU enhances the optimistic prospects for its future. Nevertheless, Kosovo has to deal with the demarcation of borders with Montenegro and settle internal shortcomings before being able to sign the visa liberalization agreement with the EU.

Kosovo has also made significant progress in its relations with Serbia. The normalization of relations between Pristina and Belgrade is of primary importance for both of them for their European integration. The ongoing EU-facilitated dialogue has already produced results and its conduct alone is an

important step for the thawing of their relations. In addition to that, Serbia is under pressure by the EU to settle the issue of Kosovo in order to be able to enter the EU. In the long term this will be beneficial for Kosovo as Serbia inevitably will have to provide some sort of consent for Kosovo's secession. Nevertheless, it may backfire in the short and mid-term as Serbia does not seem to be willing to make it easy for Kosovo. Furthermore, for as long as Serbia does not recognize Kosovo, it is extremely difficult, although not impossible, that China or Russia, the two UNSC member states with veto powers, will allow Kosovo to join the UN.

Taking all into account, Kosovo has made remarkable progress when considering that its—contested—statehood is an outcome of a unilateral act. Other such cases have failed to achieve a handful of recognitions, let alone 114 and such a wide participation in international fora. This progress makes its secession successful in the sense that its separation from Serbia is a reality and it is irreversible. Nevertheless, for as long as Serbia does not recognize its secession, and China and Russia do not lift the relevant veto, Kosovo still has a long way to go before achieving uncontested statehood. This can rapidly change, though, if an agreement with Belgrade is reached or if an agreement between the Western powers, Russia and China, is concluded.

## NOTES

1. The same can also be said for China and Russia, facing the secessionist demands of Tibet and Chechnya respectively (Ints. 6 UN Official, 7 EU Diplomat, 21, Peci).

2. East Timor was also under UN administration (UNTAES) and achieved independence from Indonesia, however, with the consent of the latter.

3. Kosovo is referred with an \* reaffirming the validity of the UN Security Council Resolution 1244/1999.

4. Each country seeking admission to the EU has to meet certain standards in various topics as defined in the thirty five chapters of the *acquis* (European Commission 2015a). The thirty-fifth chapter, having the general title “other issues” is reserved in the case of Serbia for the normalization of relations with Kosovo (Republic of Serbia 2015).

5. Officially named First Agreement of Principles Governing the Normalisation of Relations or Brussels Agreement.

6. The asterisk reads “this designation is without prejudice to positions on status, and is in line with UNSC Res 1244 and the ICJ Opinion on the Kosovo declaration of independence.”

## *Chapter Six*

# **Kosovo's Internal Viability**

Ten years after its unilateral declaration of independence Kosovo has made significant progress on issues of internal state function. The institutions are in place, admittedly weak, but constantly developing and the state gradually becomes more and more consolidated. Kosovo has made major steps forward in terms of infrastructure, communications, transportation, and policing, creating the foundations for a future viable state.

Despite this progress, Kosovo still faces shortcomings, especially in the field of human rights and rule of law. Many of the provisions on equality and inclusion remain on paper, whereas agreements, such as the Association of Serb Majority Municipalities (Association of Municipalities hereafter) are yet to be implemented. Corruption remains widespread, discouraging investment. As institutions are still in the making, even for the simplest procedures the bureaucracy is enormous, further impeded by incomplete and in some cases contradictory regulations.

In almost every aspect of this process toward statehood the presence and influence of international actors is evident. Kosovo's constitution is an elaboration of the Ahtisaari plan; the attempted effort for the creation of the Association of Municipalities is an outcome of the EU-facilitated dialogue agreed between Belgrade and Pristina; EULEX is still present assisting Kosovo authorities with various aspects of law enforcement; the NATO Kosovo Force (KFOR) is present as a security guarantor; OSCE assists with the institutions building and human rights; international donors financially support Kosovo in a variety of sectors including agriculture and rural development, communications, education and employment, trade and industry.

The focus here is on aspects that enhance or undermine Kosovo's internal viability in terms of how certain factors may affect its future as a state. Hence, elements that are not directly related to this at state level, such as

Kosovo's progress in cultural institutions or a deep analysis of the interethnic tensions at societal level are left aside. This chapter presents the constitution and the power-sharing provisions included for the representation of minorities. It also looks at the controversial agreement for the creation of the Association of Municipalities, an agreement that has raised concerns among Kosovo Albanians and Kosovo Serbs alike. It depicts Kosovo's current political scene. Finally, it presents Kosovo's shortcomings in combating corruption and protecting minority rights, showing the gap between provisions on paper and their actual implementation.

### *General progress*

In general, Kosovo has demonstrated significant progress in meeting the everyday life needs of its citizens; living in Kosovo resembles living in an independent state. State institutions are in place and reasonably functional. Road and communications infrastructure is better than other places in the Balkans. The Kosovo Police has evolved into a fairly effective force. Furthermore, since the early days of its independence, Kosovo has had a pluralistic political scene with numerous political parties and engaged civil society (Tansey 2009).

The role of the international community was enormous in this positive development. The EU has through EULEX a more active role in Kosovo since its declaration of independence. Being the largest EU civilian mission to date, EULEX provides expertise for the strengthening of Kosovo's rule of law institutions, seeking to improve and lustrate the judicial system and render it free from political interference (EULEX 2015a). It significantly contributes to the fight against corruption and organized crime by investigating and adjudicating sensitive cases such as cases of high-profile bribery, drug and human trafficking cases and war crimes (EULEX 2015b). This way EULEX helps Kosovo to reach the necessary EU rule of law standards promoting its participation to European institutions and eventually its European integration. Finally, it had played a major role in the police reform and the establishment and orderly function of border police and customs (EULEX 2015a).

Moreover, KFOR, established through the Resolution 1244, has been since 1999 guarantor of Kosovo's separation from Serbia. The initial mandate of a 50,000 troops KFOR was to impose security in Kosovo and had responsibilities that included deterrence of war recurrence, demilitarization of the KLA, establishment of a secure environment both for the return of displaced persons and for international civil presence to take on responsibilities (S/RES/1244 1999, Art. 9). In addition its tasks extended, among others, to reconstruction and de-mining, border security and interdiction of cross-border weapons smuggling as well as protection of patrimonial sites and



protection of minorities. Tasks also involve regular patrols near minority enclaves, check points, escorts for minority groups and protection of heritage sites such as monasteries (KFOR 2017).

As the security situation in Kosovo improved, the size and responsibilities of KFOR changed. In 2008 KFOR undertook the standing up and training of Kosovo Security Force, a multi-ethnic, lightly armed body whose security tasks comprise emergency response, explosive ordnance disposal, fire fighting, and civil protection. In light of the stable situation in Kosovo, since 2009 KFOR has turned into a so-called “deterrent presence” reducing its troops to less than 5,000 in 2011. Furthermore, the improved security situation on the ground also allowed NATO to continue with the implementation of the unfixing process, that is, the gradual transfer of security for religious and cultural heritage sites from KFOR to Kosovo Police. By the end of 2013, KFOR had unfixing eight properties leaving only the Decani Monastery under KFOR protection (KFOR 2017).

Apart from EULEX and KFOR, several international institutions and organizations are still on the ground assisting Kosovo in its state building process. UNMIK, in spite of not being a governance authority any more, remains in place as the Resolution 1244 is still valid. Although being significantly reduced, UNMIK continues to promote security and stability in Kosovo and encourage inter-ethnic peace and reconciliation through the launching of various cultural programs aiming to create bridges of communication between Kosovo Serbs and Albanians (Int. 17, UN Official). The OSCE plays a leading role in all matters related to human and community rights, institutions and democracy-building as well as good governance, gender equality, civic participation, and electoral support (OSCE 2015). Furthermore, through Stand-By Arrangements first signed in 2012 and being renewed in 2015, the International Monetary Fund controls Kosovo's fiscal policies and macro-economic strategies transferring knowledge and expertise to Kosovo's economic institutions (IMF 2013, 2015). Along with those institutions, a plethora of other UN specialized agencies and inter-governmental organizations are in Kosovo, such as International Organization for Migration (IOM), the United Nations High Commissioner for Refugees (UNHCR), and USAID, strengthening state institutions, promoting security and stability in Kosovo (Kosovo MFA 2015).

With international support, Kosovo has established a functioning state structure that is increasingly developing. Everyday life of Kosovo Albanians resembles life in a recognized state. Contrary to the widespread assumption of a lack of security, Kosovo is fairly safe with violent crime at low levels (ICG 2010). In terms of services and infrastructure the situation is efficient and constantly improving. Pristina airport is modern and well-organized; transportation throughout Kosovo is well-scheduled; Pristina is reconstructed and clean. Telecommunications are at a satisfactory level with Internet ca-

capacity at European levels and the percentage of Internet users at 76,62 percent, thus higher than some EU countries (STIKK 2013). All in all, Kosovo has made great leaps forward in ten years of independence and has created the mechanisms and sense of a state.

### *Power-sharing and minority rights in constitution*

The aforementioned progress is not reflected in the living conditions of Kosovo Serbs. Although their rights are protected in the constitution and they are supposed to be equally treated within Kosovo, this is far from being materialized, either because they resist integrating into Kosovan structures as this would validate its independence, or because laws remain on paper with no clear plan of implementation.

Nevertheless, Kosovo's independence was envisaged by the West to be conditional on the implementation of laws that, among others, respected the rights of minorities. Ahtisaari recommended an independence procedure supervised by the international community until Kosovo has reached satisfactory standards in several areas<sup>1</sup> of internal regulation. For the fulfillment of the benchmarks set by Ahtisaari, Kosovo's government adopted several laws in the fields of human rights, public administration, local governance, justice, and elections. In addition, the government adopted a constitution corresponding to the international community's standards (Assembly of Kosovo 2015).

The Constitution declared Kosovo to be a "multi-ethnic society consisting of Albanian and other Communities" (Constitution of Kosovo 2008, Art. 3.1) and comprises provisions that guarantee the rights of those communities, as well as their representation in the legislative, judicial, and administrative institutions of Kosovo (Constitution of Kosovo 2008). It guarantees reserved seats for the representation of minorities in the assembly, the supreme courts, other courts and the elections commission. The constitution does not foresee guaranteed representation in the Kosovo Security Force, Kosovo Security Council and the Kosovo Police, but it mentions that these bodies shall be professional and reflect the ethnic diversity of the population of the Republic of Kosovo.

In more detail, the Constitution guarantees that out of the 120 in the Assembly, 20 are reserved for the minority communities. Half of those seats are reserved specifically for the Kosovo Serb community (Art. 62.2). Non-majority communities are also guaranteed to hold 2 Deputy Presidents (Art. 67.4), as well as Minister and Deputy Ministers positions (Art. 96.3, Art. 96.4). Furthermore, at least 3 judges of the Supreme Court (Art. 103.3) and at least 2 judges of any other court shall be from minority communities (Art. 103.6). Representation of minorities is also guaranteed in the General Elections Commission. From the 11 members the Commission has, 1 member

shall be appointed by the Assembly deputies holding seats reserved or guaranteed for the Kosovo Serb Community and 3 members shall be appointed by the Assembly deputies holding seats reserved or guaranteed for other Communities that are not in majority in Kosovo (Art. 139.4). For any amendment the constitution requires 2/3 majority vote from the minorities along with the 2/3 of the rest of the votes (Art. 144.2). This provision implicitly offers the minorities veto right to future amendments if they form coalitions to that effect.

Moreover, the constitution protects the rights of ethnic, religious and cultural communities of Kosovo. Beginning with reaffirming basic human rights, such as the right to their own language, traditions, and religion, Article 59 includes the right to receive public education in their own language, establish and manage private educational institutions, as well as to use their language in their relations with the municipal authorities in areas where they represent a sufficient share of the population. In addition, guaranteed access is provided to public broadcast media, with the right to use their own language and freedom to create their own independent media. Freedom of movement within and throughout Kosovo is ensured, as well as freedom of expression, the right to participate without discrimination in the activities of local, regional, and international non-governmental organizations, and freedom to establish associations for culture, art, science, and education for the fostering and development of their identity (Constitution of Kosovo 2008, Art. 59). Finally, the Constitution of Kosovo pledges to promote and facilitate the return of refugees and assist them with the recovery of their property (Constitution of Kosovo 2008, Art. 156).

On paper the constitution is a remarkably democratic document. It is estranged, nevertheless, from the local reality and needs. Designed by international actors, they drafted a constitution that reflected their ideal of a multi-ethnic society, including provisions and rights that even EU states fail to offer to their minorities (Int. 17, UN official). This hinders its implementation and bares problems for both the Kosovo Albanian majority and the minorities. Therefore, there is a gap between what the constitution foresees and what is actually put into effect. Provisions referring to the minorities remain either unimplemented or implemented as “ticking-the-box” exercises, so as not to alienate the international architects of the constitution. A good example of ticking-the-box implementation is the case of the Serbian broadcaster. Reportedly, Serbs wanted the broadcaster to be located in Gračanica and be independent and with independent editorial policy from the Radio Television of Kosovo (RTK), which is the Kosovo public service broadcaster. Kosovo Serbs, who were involved in the process of creating the independent broadcaster, described how any proposal they offered for this purpose was disregarded. In the end, a law passed that resulted into the creation of the broadcaster in Gračanica. However, the TV station had with no signal and

could only be watched in some parts of Gračanica and Pristina, where cable providers could be found (Int. 20, Maksimović). This way the box of having a Serbian language broadcaster was nominally ticked; the fact that it was not working was beyond what the law foresaw. RTK eventually expanded in 2013 and launched a second channel, RTK 2, targeting Kosovo's largest minority communities. Since then there are Serbian language programs throughout Kosovo. Nevertheless, Mento Shala, RTK's general manager stated from the very beginning that the programs will be as apolitical as possible (Balkan Insight 2013), depriving Serbs and other minorities from a political voice in Kosovo-wide media.

In addition, Serbs have poor access to public services, which is exacerbated from the language barrier. Although the law foresees the translation of public documents to all official languages of the state, the translation is often inadequate, making the text incomprehensible (Int. 20, Maksimović). Furthermore, although non-majority communities of Kosovo are allowed to use their own language when dealing with the public sector, usually this is a luxury not provided. Despite provisions for equal opportunities, Serbs have limited chances for employment both due to the language barrier and due to ethnic discrimination. As a consequence, Serbs remain marginalized in their enclaves, having limited access to higher education or opportunities for economic and professional development (Int. 13, EU Diplomat).

The guaranteed representation for minorities bares problems too. Kosovo Albanians consider minorities to be overrepresented in the assembly and other state institutions (Gross 2017). The 20 guaranteed seats they hold in the Assembly give them the opportunity to create alliances and veto amendments and decisions that require the 2/3 minorities approval. Taking into account that half of the minorities' reserved seats are for Serbs, Kosovo Albanians consider it to be an overly generous representation that yields sovereignty back to Serbia (Int. 4, press editor). This has become more problematic with Srpska Lista (Serbian List), a Belgrade-controlled Serbian party representing the planned Association of Serb Majority Municipalities, running in Kosovo elections. Srpska Lista has won in the June 2017 elections 9 out of 10 Serb reserved seats, increasing Kosovars' frustration about Serbia's involvement in Kosovo's political affairs (Int. 18, Civil society activist).

Also this, even nominal in some cases, overrepresentation denies Kosovo's Albanians the "symbolic ownership" of what they consider to be their own state (Landau 2017, 443). Kosovo Albanians fought for independence with various means since the 1990s and this state is the materialization of their goals and the reward for their struggle. This emphasis on multi-ethnicity, symbolized in the constitution also through the flag and the anthem,<sup>2</sup> deprives Kosovo Albanians of the ownership of what they consider to be theirs, alienating state institutions from the society.

Hence, Kosovo as a state is contested not only externally with the lack of international recognition, but also internally. The majority of Kosovo Serbs does not recognize Kosovo's statehood and either refuse or do not have the opportunity to be integrated in the state structures. State institutions are delegitimized also in the eyes of Kosovo Albanians, who reject the suggested projection of Kosovo as a multi-ethnic society (Landau 2017).

Therefore, Kosovo's constitution might be a well-written document according to Western standards of democracy. However, it is detached from the reality on the ground. This constitution would perhaps work in a long established democracy. However, Kosovo is still a contested state that struggles for recognition and legitimacy both internally and externally. In such a place where there is still social antagonism between different ethnicities the actual implementation of the constitution becomes problematic and opposed by both majority and minority communities.

#### *Association/community of Serb majority municipalities in Kosovo*

The Brussels Agreement, presented in the previous chapter, included the creation of the "Association/Community of Serb Majority Municipalities in Kosovo" (hereafter Association of Municipalities or Association); 6 out of the 15 agreed points refer to the establishment and functions of this institution (Brussels Agreement 2013). The dual naming of Association/Community runs throughout the text, reflecting the different interpretation Serbs and Kosovo Albanians have had in terms of the nature and the competencies of the institution. The different understandings on those matters have created an impasse that has not only prevented its materialization, but has contributed to the deterioration of the Kosovan domestic political scene in general.

To begin with what competencies the Association of Municipalities is envisaged to have according to the Brussels Agreement and the "General Principles/Main Elements" agreed in August 2015, the General Principles/Main Elements state that the Association's objective is to *exercise full overview* to develop local economy, education, local primary and secondary health, and social care. It will also be in position to coordinate urban and rural planning, adopt measures to improve local living conditions for returnees to Kosovo, conduct research, and development activities. The Association will promote and advocate issues of common interest of its members and represent them, including to the central authorities, provide services to its members in accordance with Kosovo law, assess the delivery of public services to its members and their residents, and establish relations and enter into cooperation with other associations of municipalities, domestic and international (EEAS 2015).

Fundamental aspects of the Association will be to promote the interests of the Kosovo Serb community in its relations with the central authorities. For

this purpose it is entitled to propose, in accordance with Kosovo law, amendments to the legislation and other regulations relevant for the performance of its objectives and initiate or participate in proceedings before the competent Courts, including to the Constitutional Court. It will also have right to nominate representatives in the competent organs/bodies of the central government (EEAS 2015).

The Association will be funded from various sources including contributions from its members, income from the services it will provide, its companies or assets it owns, transfers from the central authorities and contributions from other organizations, domestic and international as well as financial support from Serbia. Notably, the Association will be exempt from duties and taxes in the pursuit of its objectives, on the same basis as the participating municipalities. Finally, the Association will be entitled to have president, vice president, assembly, and council as well as its own official symbols (coat of arms and flag), in accordance with Kosovo law (EEAS 2015).

The main issue of disagreement between Serbs, Kosovo Serbs, and Kosovo Albanians pertains to the powers the Association will have in Kosovo. The Serbian government, emphasizing the wording “exercise full overview” in the document, has strongly implied that the Association will have executive powers within the central Kosovo structures (Republic of Serbia 2015). The Kosovo Government, on the other hand, asserts that “all tasks and objectives of the Association are limited to the general overview on local issues, without having the possibility of obtaining authorization in managing the local issues” (Republic of Kosovo 2015, 23-24). The Kosovo Government insists that the Association will merely have a consultative character, similar to the existing Association of Kosovo Municipalities.

The dialogue is being held between representatives of the Republic of Kosovo and the Republic of Serbia. Kosovo Serbs are, therefore, the most affected and at the same time the most under-represented group in this process, not having a seat at the negotiations table. Being mainly informed by Serbian media, some Kosovo Serbs are convinced that the Association will have executive powers. Others are less optimistic, but still stress that the Association should have executive powers. In any case, though, it remains vague what these competencies would encompass and what effect they would have in practice (BPRG 2017).

It is also unclear, how the Association will practically add to the rights Kosovo Serbs have already enjoyed. The provisions for the Association are not as far removed from the Kosovo legal framework as presented by both Kosovo Albanian and Serb politicians. Education, health and social care, economic development and rural and urban planning fall under the exclusive competences of municipalities and municipalities are allowed to cooperate in these domains (ECMI 2016). The legal framework might not always be upheld in Kosovo. However, through parallel structures, Serbia provided the

resources for Kosovo Serbs to manage such issues especially on education and to some extent health care (Krasniqi 2015a). Now with the Association of Municipalities these competences—with or without executive powers—will be transferred to the Kosovo system, which Kosovo Serbs consider to be far lower in terms of quality and capacities than the Serbian one (Ints 8, 9 Civil society activists). Thus, for many Kosovo Serbs the Association will “take away what [they] already had by weakening links with Serbia and putting into question the survival of institutions sustaining the existence of Serbian community in Kosovo” (BPRG 2017, 30).

The predominant view is that the creation of the Association of Municipalities is Serbia's way out of Kosovo. Kosovo Serbs seem to realize that despite public insistence of territorial integrity, the Kosovo issue is no longer central to the Serbian political debate (Int. 29, Civil society activist). Belgrade's priority now is international reintegration seeking to finally move away from the legacy and the stigma of the Yugoslav wars. This is achievable through normalization of relations with Pristina and EU integration. The dismantling of Serbian structures and their handing over to Kosovo central authorities is a part of this process. For Kosovo Serbs, therefore, the establishment of the Association under the central authorities in Pristina is a confirmation of Serbia's retreat from Kosovo.

While for Kosovo Serbs the Association manifests the retreat of Serbia from Kosovo, for Kosovo Albanians it demonstrates quite the opposite. For them the Association institutionally establishes Belgrade's involvement in Kosovo affairs and further undermines Kosovo's sovereignty (Int. 15, Kursani). In return for the dismantling of the Serbian parallel structures and the participation of Serbs in the Kosovo elections, the Kosovo government has accepted the creation of the Association (Bajrami 2017). With that, however, they also accepted the legally established direct interference of Belgrade to Kosovo's local governance (ECMI 2016).

Thus, the agreement on the Association of Municipalities at the same time both confirms and diminishes Kosovo's sovereignty. On the one hand, Belgrade officially hands over the Serbian run structures to the Kosovo central authorities, *de facto* accepting Kosovo's secession. On the other hand, it reserves the right to interfere with Kosovo politics through the right to financially support the Association and heavily influence the choice of its representatives by creating the Srpska Lista.

The extended autonomy the Association might have, in combination with Belgrade's influence on it, exacerbate fears of creation of “Bosnianization” of Kosovo (BPRG 2017). Bosnia-Herzegovina being administratively divided along ethnic lines has created over the years a model of a dysfunctional state (Kartsonaki 2016). Kosovars fear that the Association will discourage Kosovo Serbs from integrating into the Kosovo structures, with the Association evolving eventually into an entity that resembles Republika Srpska in

Bosnia. This not only will further deepen the ethnic segregation at social level, but will also undermine the capacities of the central state at the political level, entrenching double sovereignty in Kosovo and severely obstructing the running of the central state.

Despite the assurances of the Kosovo Government on the consultative character of the Association, the opposition parties pledged to impede its materialization. Ramush Haradinaj, leader of the Alliance for the Future of Kosovo (AAK), said that the Agreement on the Association endangers the functioning, sovereignty, integrity, and statehood of Kosovo (Kelmendi 2015). In the same vein, Ilir Deda, MP from Vetëvendosje! described the imminent division of Kosovo and the weakening of the position of Kosovo Albanians by reportedly stating that

Kosovo will now have two Assemblies, two Presidents, a Government and a Board of Agreement of the Association of Serb Majority Municipalities, two telecom operators, two energy companies, a divided judicial system, divided police, an increasing number of civil servants—the number of employers in the Association will be from five to ten thousand—two health and education systems. Hence, now Kosovo will become a place where the government in Pristina will govern with Albanians, Bosnians, Turks and Roma, while Serbs will be governed by the Association of Serb Majority Municipalities and Belgrade (Kelmendi 2015).

The situation deteriorated after the ambiguous decision of the Kosovan Constitutional Court. Atifete Jahjaga, the president of the Republic of Kosovo, referred in October 2015 a question to the Constitutional Court asking whether the principles and elements are compatible with the spirit of the Constitution, especially in regards to the multi-ethnic nature of Kosovo, the basic rights and freedoms enshrined in the Constitution, and the rights of communities and their members (Constitutional Court 2015). The Court responded that the Brussels Agreement was in line with the Constitution (Constitutional Court 2015, 189.3). However, it added that the Principles as elaborated in the subsequent agreement of 2015 are not entirely in compliance with its spirit (Constitutional Court 2015, 189.4). Lastly, it stated that the elaboration of the Principles into the legal act and the Statute shall be done in accordance with the spirit of the Constitution, and thus, these Principles shall be in compliance with the constitutional standards of the Republic of Kosovo (Constitutional Court 2015, 189.5).

The judgment was interpreted in a variety of ways, adding to the impasse. The opposition emphasized the part of the decision stating that elements of the agreement contradict certain articles of the constitution and therefore, the agreement cannot be implemented (GazetaExpress 2017). A different reading of the judgment, though, suggests that Kosovo's Constitutional Court has given its approval to the creation of the Association, saying however that



those certain issues should be corrected (Popova 2015). According to the EU, the judgment does not prevent the establishment of the Association and the Government of Kosovo should proceed with implementation. In another reading the ruling implies that the association should be formed in accordance with the other Kosovo Association of Municipalities (BPRG 2017).

Similar to Kosovo Serbs, Kosovo Albanians fail to see any added benefit in establishing the Association. They have already made too many concessions to Serbia and the international community in terms of internal sovereignty in exchange for international recognition. However, there is limited progress on that front; despite the rhetoric of normalization of relations, Serbia seems reluctant to grant Kosovo official recognition and open thus the way to uncontested statehood. Thus, Kosovars are concerned that they have been giving away elements of sovereignty in vain. In combination with the several problems Kosovo confronts, including poverty and unemployment, this has sparked a serious political crisis in Kosovo.

## POLITICAL SCENE

Kosovo has been experiencing recurrent political crises in recent years. Following the elections of June 2014 the country entered a political deadlock with Hashim Thaçi's PDK (Democratic Party of Kosovo) winning the elections, but not achieving the necessary parliamentary majority to form a government. The stalemate ended six months later when PDK and the main opposition party LDK (Democratic League of Kosovo), led by Isa Mustafa, reached an agreement to form a governing coalition (Zogjani 2014).

Less than a year later, in August 2015, following the signing of the agreement on the establishment of the Association of Serb Majority Municipalities, Kosovo entered another crisis. The opposition parties including Vetëvendosje!, AAK, and NISMA (Initiative for Kosovo) came together to prevent both the establishment of the Association and the agreement on border demarcation with Montenegro. Considering these agreements to be detrimental to Kosovo, the opposition made it clear that it will use any means possible to force the government to withdraw their signatures (Krasniqi 2015b). The tactics included releasing tear gas and pepper spray in parliament, blowing whistles and throwing water bottles to disrupt proceedings, and pelting the prime minister with eggs (Gall and Chan 2016).

The June 2017 elections resulted again in political stalemate. The coalition led by PDK, AAK, and NISMA managed to win only 39 out of 120<sup>3</sup> seats. Vetëvendosje! ranked second winning 30 seats and almost doubling its popularity since 2014. This might have been a surprising outcome for Kosovo's politics (Balkan Insight 2017a), it shows, though, Kosovars' frustration with the current political elite, the economic stagnation, the weariness of the

still uncertain status of Kosovo and the isolation it produces as well as the increasing involvement of Serbia in Kosovo's affairs without, though, providing the much needed recognition (Rexhepi 2017, Int. 4, press editor).

The deadlock seems to have ended relatively quickly with Srpska Lista agreeing to support the new government coalition led by Ramush Haradinaj in exchange for holding the Ministry of Agriculture, the Ministry of Local Governance, and the Ministry for Returnees (Isufi 2017, Balkan Insight 2017b). However, the decision of Srpska Lista to back a government led by Haradinaj made Kosovo Serb wonder how supporting this coalition could be seen as serving the interests of the Serb community (Radosavljevic 2017), not only in light of Haradinaj's past in the KLA, but also his more recent statements against the establishment of the Association of Municipalities (GazetaExpress 2017).

The creation of the Srpska Lista itself raises concerns both among Kosovo Serbs and Kosovo Albanians. It is no secret that its members have consultation meetings with the Serbian government and since its establishment it has been coordinating its activities with Belgrade (Tanjug 2017a). This, however, deprives Kosovo Serbs the right to elect someone from their local community, who is not a member of the List. This became more obvious when two Municipal Assembly candidates from Northern Kosovo withdrew their candidacies for the local elections, scheduled to take place in October 2017. After submitting their candidacies and electoral lists, these two candidates withdrew and then supported Srpska Lista reportedly saying that they were "misled" (Radosavljevic 2017). Srpska Lista intimidates Kosovo Serbs maintaining that only this party, supported by Belgrade can guarantee the safety of Serbs in Kosovo claiming that other Serb representatives not affiliated with the List are "Trojan horses that should take Albanian candidates for Serb MPs to parliament" (Tanjug 2017b). It seems that through Srpska Lista the Serbian government deprives Kosovo Serbs the right to choose freely their own representatives, practically destroying political pluralism among them and making them vulnerable to political blackmail (Krasniqi 2016).

Belgrade's involvement in Kosovo's domestic politics through Srpska Lista is also problematic for Kosovo Albanians, who see their already contested sovereignty further reduced. The fact that this is an outcome of a negotiated deal their government has signed has contributed to the continuation of the political crisis and the mobilization against the Brussels Agreement. The creation of Srpska Lista in combination with the guaranteed seats for minority representation in the Assembly turned minority rights into a serious political issue that may threaten Kosovo's stability.

## RULE OF LAW, CORRUPTION, AND MINORITY RIGHTS

Kosovo faces shortcomings in the areas of rule of law, combating corruption, and upholding minority rights. The lack of rule of law remains a serious concern in cases of high-profile corruption and organized crime (European Commission 2014b). Corruption continues to be widespread in institutions and organizations operating in Kosovo, involving both local and international agents (Int. 5, EU Diplomat). Although drug-related crime investigations have been increased and a number of human trafficking groups have been dismantled, the number of convictions and drug confiscations remains low (European Commission 2014a).

Low level corruption, in the sense of prioritizing informality before transparency runs high in societies in transition and Kosovo is no exception to that. Also, this socioeconomic way of function based on family and community ties and on a cliental political system positively contributed to maintaining stability at least in the first stages of the transitional phase. Thus, in the beginning this was the cost international actors have been ready to accept. Later, with corruption already engrained in the social fabric, governance reforms have been devised by international officials, but corruption has continued to prosper under the surface of formal institutions (Belloni and Strazari 2014).

Furthermore, the independence of the judicial system is contested, while harassment of judges and prosecutors poses a serious problem. Witness protection remains almost non-existent and witness intimidation is a common phenomenon, further hindering the prosecution of high-profile criminal perpetrators. Even in cases where perpetrators are widely known, lack of adequate witness protection leads to lack of testimonies. Thus, most of the time, investigations stop due to a lack of sufficient evidence (Int. 6, UN official).

Economic development remains limited. Due to high levels of corruption private foreign investment is discouraged. Productivity is limited and the economy is based on international assistance and contributions from the diaspora. With the unemployment rate to reach 35 percent and per capita Gross Domestic Product (GDP) at €3,000 Kosovo is one of the poorest countries in Europe (World Bank 2015). On the positive side the cost of living is accordingly low, increasing the purchasing power of euro in Kosovo. Moreover, Kosovo has recorded positive growth rates in every year since its independence even during the global recession period 2008-2012. Kosovo's growth rate continues to be positive at 3.4 percent and its banking system is well-capitalized, liquid, and profitable (World Bank 2015, European Commission 2014a, IMF 2015).

Similar to the Constitution, laws on human and community rights are most of the time only partially implemented. An example is Kosovo's Law on Citizenship, which contains citizenship pathways for pre-war residents of

Kosovo and acquisition pathways through various ways, that is, naturalization, birth, direct descent, and marriage. It was designed to facilitate the integration of people with ties to Kosovo, particularly the diaspora and displaced persons and to support the integration of Kosovo Serbs (Andric and Bailey 2017a). However, the process is quite time-consuming. The acquisition of Kosovan identification cards has been impeded by inconsistent implementation, poor communication between authorities and the public, and bureaucratic barriers surrounding the application process (Andric and Bailey 2017b). The situation deteriorated for Kosovo Serbs when Kosovo Minister for Dialogue, Edita Tahiri, announced that Serbian citizens in Kosovo must be equipped with identification cards of the Republic of Kosovo otherwise they will be prohibited from entering or exiting Kosovo (The Republic of Kosovo 2016), a measure that further adds to their marginalization and isolation.

Serbs still lack solid and tangible assurances of physical security (Bataković 2014). Insecurity and more importantly the perception of insecurity have locked Serbs in enclaves allowing them only restricted freedom of movement. Fear of physical safety discourages the return of displaced persons. Those who abandoned their residence during the 2004 riots rarely return to their homes (Ints. 10, 29 Civil society activists). Impunity against perpetrators of ethnically-motivated violence only enhances this feeling and widens the distance between the two communities. Serbs have also limited access to justice, with their lawsuits or appeals often being ignored (Ints. 9, 10, Civil society activists). Finally, technical and infrastructural problems are widespread in Serb inhabited areas with power, water, and television signal outages a common phenomenon (Int. 20, Maksimović).

Although some progress has been made in terms of reconciliation, the pace is slow and further hampered by the social distance between the communities. The language barrier between Serbs and Albanians is growing, as younger generations do not speak each other's language (Int. 19, EULEX official). By living in segregated communities and not having any communication negative perceptions and mistrust between Serbs and Albanians is growing (Int. 15, Kursani). Reconciliation programs organized by international organizations often fail; even during the course of the program members of each community tend to gather together instead of trying to communicate with each other (Int. 17, UN official). Furthermore, contact and integration is often hindered by members within the minority community itself. Often those who want to integrate and participate in Kosovo's political life are treated as traitors or agents of the Albanians' by the rest of the community (Ints. 1, Former KFOR personnel, 9, Civil society activist). This has only gradually started to change. As an increasing number of Serbs accept the irreversibility of Kosovo's secession and seek opportunities for a better life, they also try to integrate.

## IMPOSED VIABILITY

Kosovo's internal viability is closely connected to the international support it has been receiving. International actors and EU countries in particular have constantly and persistently continued to support Kosovo's statehood at both the international and internal level. This backfires from time to time as foreign involvement in Kosovo affairs frustrates Kosovars and it also leads to the design of institutions that are alien to local needs and capabilities. Nonetheless, foreign involvement provides the know-how and the necessary resources both for the creation and the running of institutions. The EU continues to provide financial assistance under the Instrument for Pre-Accession Assistance<sup>4</sup> (IPA) (European Commission 2014a). Apart from the EU, individual countries also continue to support Kosovo financially with some of the most important donors to be the United States, Germany, Switzerland and Norway (FFO 2015, KCSF 2015, USDS 2013, RNEP 2013).

The question that therefore threads through all this assistance and perseverance is why the West continues so persistently to support Kosovo. There are various reasons explaining this support. One of the main reasons is the need for peace and stability in the region (inter alia, Ints. 5, 7, 13 EU Diplomats). The EU has been engaged in the Balkans for several years, seeking to maximize stability through various strategies and accession processes. However, unsettled issues are still lurking in the Balkans, mainly in Bosnia-Herzegovina and the neighboring former Yugoslav Republic of Macedonia. An unstable Kosovo would only add to the fragility of the region, having potential spill-over effects, severely undermining the long-lasting European efforts for stability. Furthermore, insecurity and instability in Kosovo would result in thousands of Kosovan migrants in EU countries, an event that none of the European countries would welcome (Ints. 19, EULEX official, 23, Non-EU Diplomat). The EU seeks to prevent that by setting the foundations for the creation of a viable state, safe and stable.

Moreover, Kosovo's continued inability to combat organized crime allows illegal activities to penetrate the EU. The EU, aiming to secure its borders from organized crime, promotes the strengthening of state mechanisms in fragile countries in the region. Kosovo, lying on the Balkan route of heroin and marijuana trafficking, is one of the top priorities of the EU on this matter (UNODC 2014). Hence, the EU seeking to secure its own borders, strongly supports Kosovo's institutions building process, seeking to create a state that is able to positively add to the security of the neighborhood.

A further reason explaining the West's support, less related with geography, is that Kosovo's independence is mainly an outcome of the West's actions. The West's decisions and strategies opened an irreversible course toward Kosovo's secession; first with the NATO intervention and then with the revocation of Serbia's autonomy in Kosovo and the placement of the

latter under international administration. Now, after Kosovo declared independence with the West's endorsement, a failure to create a viable and recognized state would reflect a failure of their policies. This would be not only a humiliation, but would also turn Kosovo into a detrimental investment that wasted years of resources, funds, and personnel (Int. 7, EU Diplomat); thus, Kosovo has to run somehow (inter alia, Ints. 5, EU Diplomat, 27, senior UN official, 30 Non-EU Diplomat). This necessity to make Kosovo viable and demonstrate that it is functioning has turned it into a "ward state" (Int. 16, UN official), that is, a state that is viable through the support of international actors involved.

Summing up the reasons why the West and especially the European countries support Kosovo's successful secession so firmly revolve mainly around geography and the EU's desire for stability in its neighborhood. The EU countries cannot afford to have a black hole of poverty, insecurity, and organized crime in such proximity to their territory. Therefore, the EU assists Kosovo with the creation and strengthening of state institutions, aiming to create a state that can positively help with combating organized crime and trafficking. The EU thus by promoting strategies that strengthen Kosovo's viability, seeks to secure its own borders and strengthen stability in its immediate neighborhood. What is more, Kosovo's statehood is largely an outcome of a series of the West's actions. A failure to achieve uncontested statehood would be for the West a demonstration of the failure of their strategies. Hence, the West and the EU in particular is resolved to commit to all necessary actions to turn Kosovo from a contested secession to a viable state.

## CONCLUSION

In terms of everyday life, Kosovo is a functional state. Institutions are in place, weak, but fairly effective. In terms of services and infrastructure it is efficient and constantly improving. Transportation throughout Kosovo is reliable and telecommunications are at a satisfactory level. Pristina is safe, reconstructed and clean and in general everyday life there resembles life in an independent state.

Still Kosovo faces challenges at both political and societal levels. Kosovo is a weary place; Kosovo Serbs are tired of abandonment, poverty, marginalization, and discrimination. Kosovo Albanians are tired of poverty, isolation, international patronization, and the still unfulfilled expectation of uncontested statehood. This division and piling up of frustration creates fertile ground for political crises to break out that only add to Kosovo's stalemate. In addition, Kosovo has to make more progress in combating corruption and organized crime. It also has to try more to meet the needs of its population and create an environment for development in order to reduce poverty and

improve living conditions. Finally, Kosovo falls short in meaningfully meeting its commitments toward minorities with many of the adopted laws to remain on paper.

Despite several shortcomings Kosovo is still viable. The problems Kosovo confronts are not unusual even among several well-established UN member states. All things considered, in ten years after independence Kosovo has created with the support of the West a running state. The Kosovo government manages to exert authority over the majority of population and territory. Through the Brussels Agreement this authority has started to expand to the Serb inhabited municipalities in the North. Although the Brussels Agreement and certain provisions within it may have allowed for Belgrade's interference in Kosovo's affairs, this takes place within and under the Kosovo system and in accordance with Kosovo law. Thus, the Brussels Agreement itself and the engagement of Belgrade in those negotiations strengthen Kosovo's viability, being at the same time a validation of the irreversibility of Kosovo's secession and the control it exercises within its borders.

## NOTES

1. The provisions of the Ahtisaari proposal included the protection of human rights, and rights of ethnic, linguistic, and religious communities in particular, return of refugees and missing persons, regulation of issues of territorial self-governance, so that municipalities would constitute the basic form of self-governance in Kosovo, autonomy and protection of religious denomination, with enhanced protection measures for the Serbian Orthodox Church, establishment of a fiscal surveillance system of public accounts under the aegis of the European Commission and the International Monetary Fund, the development of Kosovo Security Force to a multi-ethnic and professional force, the conduct of free and fair general and municipal elections and drafting of a constitution in cooperation with the international community. The Ahtisaari plan also provided for the establishment of an International Steering Group comprising key international stakeholders and the appointment of an International Civilian Representative who would bear responsibility for the supervision and interpretation of the settlement. Furthermore, the proposal foresees the establishment of a European mission to assist Kosovo authorities in the field of rule of law and also the formation of a NATO International Military Presence to support the implementation of the plan and also to assist with the training of the Kosovo Security Force (S/2007/168.Add1 2007).

2. The six stars on Kosovo's flag supposedly represent the six ethnicities of Kosovo. In the spirit of multi-ethnicity, Kosovo also has a wordless anthem (Landau 2017).

3. Note that 20 seats are reserved for minorities.

4. For the period 2007-13 Kosovo received a total of €673.9 million. An additional €38.5 million was provided in 2013 to support the Pristina-Belgrade dialogue, the normalization and integration processes in Kosovo, including the visa dialogue. Under IPA II (2014-2020) Kosovo will continue to benefit from pre-accession assistance with a provisional total of €645.5 million. Through IPA and IPA II the EU aims to enhance democracy and good governance, strengthen the rule of law, promote fundamental rights, increase competitiveness and innovation, improve education and social policies, boost employment and support energy, agriculture and rural development (European Commission 2014a).





# Conclusion

Both international recognition and internal viability yield a significant weight for the success of secession. International recognition offers access to all the benefits statehood brings about; among others, official interactions with other states, access to international funding, and development programs. It is the official acknowledgement that the seceding entity has turned into a state, thus, it is no more treated as an illegal personality, but as a member of the international community.

The importance of international recognition is nothing new and has been extensively researched as an event that signifies that a secession has succeeded. What has been neglected, though, is the importance of internal viability and the role it plays for the success of secession. Internal viability may ensure the sustainability of the seceding entity, that is, the continuation of its existence as a unit separated from the parent state. The importance of internal viability is further increased in cases of lack of international recognition. In such cases, internal viability may create a mode of operation *de facto* independent and beyond the authority of the parent state.

Thus, a secession can be deemed successful even in the absence of international recognition, if the seceding entity has managed to create a viable entity. This is not to deny the importance of international recognition or international support. On the contrary, frequently *de facto* states are dependent on one or more patron states showing the necessity of external support and the interrelation of external support and internal viability for the success of secession. International recognition would reduce the dependency on patron states and would give the separatist entity the opportunity to interact freely with other countries. Therefore, the purpose of the argument here is not to diminish the significance of international recognition, but rather to expand the understanding around the forms a successful secession may have.

It offers an alternative point of view on when a secession can be regarded as successful postulating that it can be deemed successful if the separatist entity has achieved such a level of external support and internal viability that has rendered its secession a *fait accompli*.

In that sense, Kosovo's secession has been successful. Despite the fact that it has yet to be universally recognized, Kosovo's separation from Serbia is undeniable. Even Belgrade recognizes that, as demonstrated by the nature of the negotiations with Pristina in the frame of the EU-facilitated dialogue. With the West's support, Kosovo has also created a viable entity, whose government is able to exert empirical sovereignty. Moreover, through the engagement of Belgrade in a high-level dialogue aiming at normalization of relations, Kosovo's viability is strengthened as the authority its government wields has started to expand also in the northern municipalities, a part of Kosovo mainly inhabited by Serbs. Thus, in terms of creating an entity that is likely to continue to exist separately from its parent state Kosovo secession has succeeded.

However, this success was neither an outcome solely coming from Kosovo's efforts nor did it happen suddenly in 2008 when it unilaterally declared independence. Kosovo's secession was a long process that started well before 2008 and involved several actors at and across different levels. This work had a starting point in 1991, when Kosovo declared independence for the first time. This does not mean, though, that Kosovo's desire for independence started only then. As a matter of fact, struggles for independence are reported throughout the twentieth century. Therefore, a brief historical background against which the first declaration of independence took place has also been included in the beginning of the empirical chapters.

The empirical part of the book began with researching why Kosovo's first attempt to secede in 1991 failed. It showed that Kosovo's first attempt to secede was unsuccessful due to the absence of violence. Kosovo, following Rugova's peaceful approach, by not being engaged in armed conflict was not considered to be a major factor of instability and an urgent issue for the international community to address. With the Yugoslav wars raging the international community was occupied with stabilizing the situation in the northern borders of Yugoslavia. Thus, Kosovo's demands for independence were deliberately neglected by the international community who did not wish to risk opening a new front in the southern part of Yugoslavia, or disengaging Milošević from the peace negotiations for the settlement of the Yugoslav wars.

The situation changed, however, in the middle of the 1990s with the end of the Yugoslav wars and the emergence of the KLA. The actions of the KLA, pursuing independence with a more radical approach, provoked the retaliation of the Serbian forces, escalating the conflict in Kosovo. The mounting violence attracted the attention of the West, who with the Yugoslav

wars resolved, had both the time and resources to address Kosovo's demands and also sought to avoid the destabilization of the fragile situation in the Balkans.

Furthermore, the Yugoslav wars had been a source of frustration and humiliation for the international community, whose inefficiencies were apparent on several occasions, with the massacre in Srebrenica being a particular sore point. In addition, after the end of the Yugoslav wars, there was no reason for the international community to continue the previous policy of appeasement toward Milošević. In contrast, Milošević had lost his credibility in the eyes of the international community, who hold him accountable for crimes during the Yugoslav wars and Srebrenica in particular.

Thus, the West determined not to repeat the mistakes of the past and also having to defend its role as a credible conflict manager decided to take action and settle the Kosovo issue swiftly. In the post-Cold War era when US supremacy in the world affairs was irrefutable, this change of stance followed by the NATO air campaign played a catalytic role for Kosovo's successful secession. First, the NATO military intervention ended with the suspension of Serbia's authority over Kosovo and the placement of the latter under international administration. Second, the NATO intervention initiated a process that, along with the international administration, would subsequently secure the support of the West in favor of Kosovo's statehood.

The events that occurred between 1991 and 1999 and led to the NATO air offensive, took place across four different levels of analysis, with these levels being, first, the local or the seceding entity level, thus Kosovo; second, the state or parent state level, that is, Serbia; third, the region, that is, the Balkans; and fourth, the global level. Locally, of critical importance was the rise of violence. At the state level Milošević had turned into an illegitimate and unwanted leader. At the regional level, the Yugoslav wars had both ended and also provided experience and unpleasant memories to the international community, which sought to avoid them from being repeated. In addition, the European countries wished to avoid any destabilization in the Balkans, as a region in such close proximity with major EU countries. At the global level, the Cold War had ended and the United States was the only superpower in the international system. Thus, when the West decided to support Kosovo's cause, Russia, as the supporter of Serbia was unable to defend the interests of its ally. This one-sided power distribution changed the conditions in favor of Kosovo, initiating the process of its successful secession.

Similarly, events that took place from 1999–2008 and contributed to the creation of the conditions for Kosovo's successful secession also occurred across four levels of analysis. To begin with, Kosovo was placed under an UN-led international administration, which had an effect both on the local and on the state level, as it separated Kosovo from Serbia. The authority of Serbia on the vast majority of Kosovo's territory and population was an-

nulled, while Kosovo being under international administration had de facto seceded from Serbia. Furthermore, at the local level, the international administration created the conditions for the later viability of Kosovo as an independent state, by promoting the state and institution building process on the ground.

Another event that took place at the local level and affected Kosovo's secession were the riots of 2004. The 2004 riots, resulting in thousands of internally displaced persons and huge amount of property destroyed, created fears that a possible repetition of such an enormous wave of violence not only would be destructive for the international administration in Kosovo, but would potentially create a domino effect at the regional level. Thus, in order to avoid a spill-over from the local level to the regional, the West accelerated the procedures for the finding of a permanent settlement that would guarantee peace and stability in the Balkans.

This led to global-level negotiations, including participants from the local and the state level as well, where the West proposed and practically imposed a plan foreseeing the independence of Kosovo, as being the only settlement that would ensure peace and stability in the region. The negotiations showed again how global dynamics affected the outcome of Kosovo's secession, as Russia, although a re-emerging global power was once more unable to exert sufficient influence in order to defend the interests of Serbia. However, in spite of the one-sidedness of the negotiations, the fact that they occurred provided the legitimacy argument for the West that all means possible to settle the conflict had been exhausted and therefore there was no other viable solution short of the secession and the recognition of Kosovo as an independent state.

This one-sided conduct of negotiations was probably the first clear demonstration of the enormous support the West would provide to an independent Kosovo after its unilateral declaration of independence. The United States, the majority of NATO countries as well as the majority of the EU countries recognized Kosovo as a sovereign and independent country shortly after it unilaterally declared independence in 2008. The support of those countries was able to turn Kosovo's unilateral secession into a *fait accompli* by lobbying for its international recognition worldwide and also releasing a considerable amount of resources for institution building and the establishment of a viable state.

Non-recognizing countries also support Kosovo's international participation and internal viability. For instance, although five EU members continue to not recognize Kosovo as an independent state, the EU was able to agree for the establishment of EULEX, a mission on the ground aiming to assist Kosovo authorities in the field of rule of law. In addition, Greece, Slovakia, and Romania, three of the five EU non-recognizing countries maintain liai-

son offices in Pristina, promoting Kosovo's participation in regional organizations and cooperating with the local politicians and authorities.

Kosovo has also signed the Stabilization and Association Agreement with the EU and is also in the process of visa liberalization for Kosovo citizens. The SAA aims to create trade and investment opportunities that would enhance Kosovo's economic growth and would reduce its unemployment. Furthermore, the agreement seeks to address other areas in which Kosovo displays fragility, such as political dialogue, justice, energy, and home affairs. Regarding the visa liberalization, Kosovo has first to make progress on issues such as tackling organized crime and settling the demarcation of borders with Montenegro before being able to sign it. In any case, however, both agreements generate benefits that add both to Kosovo's international integration and to its capacities as a viable state. In addition, the SAA is a contractual agreement with the EU that entails mutual rights and obligations. This is a further demonstration that the EU treats Kosovo as an independent state promoting both its integration and its viability.

The EU also indirectly promotes Kosovo's uncontested statehood by putting Serbia under pressure to settle the issue of Kosovo in order to be able to enter the EU. For as long as Serbia does not recognize Kosovo, it is extremely difficult—although not impossible—that China or Russia, the two UNSC member states with veto powers, will allow Kosovo to join the UN. The EU, thus, seeks to bend Serbia's stance by making Serbia's accession to the EU conditional upon the settlement of the Kosovo issue and the normalization of their relations.

Indeed Belgrade, demonstrating the will to join the EU has been engaged in a high-level dialogue with Pristina that has already produced fruitful results. For example, through the agreement with Serbia, Kosovo has established its borders and Serbia accepts documents issued by the institutions of Kosovo as valid forms of identification, while both sides have agreed that they would not block each other's European course. The negotiations resemble talks between two independent states and although this dialogue does not constitute official recognition of Kosovo's secession, it does show that Serbia has accepted that Kosovo is independent.

Therefore, in terms of international recognition, Kosovo has made remarkable progress when considering that its—contested—statehood is an outcome of a unilateral act. Other such cases have failed to achieve a handful of recognitions, let alone 114 and such a wide participation in international fora. This progress makes its secession successful in the sense that its separation from Serbia is a reality and it is irreversible. Admittedly, for as long as Serbia does not recognize its secession, and China and Russia do not lift the relevant veto, Kosovo has a long way to go before achieving uncontested statehood. This can rapidly change, though, if an agreement with Belgrade is

reached or if an agreement between the Western powers, Russia and China is concluded.

Furthermore, through the allocation of resources, in economic, institutional, and technical terms, the West and the EU, in particular, have been promoting the state building in Kosovo, ensuring its internal viability. With international support, Kosovo has established a functioning state structure that is increasingly developing. Its institutions are still weak but continuously strengthened, the political system is also weak, but functional. The government is in place to provide order within its borders, while with the Brussels Agreement this control is gradually extending to the northern Serb inhabited municipalities with Serbia loosening its grip there.

Certainly Kosovo faces several shortcomings. It is still a new state in the making, with little institutional memory. This hampers rule of law and the tackling of corruption and impedes economic development. Kosovo is also a place with strong interethnic antagonism and recent history of interethnic war. This makes minority rights difficult to be upheld and minorities remain marginalized in their enclaves. Kosovo is poor and its citizens are isolated due to lack of recognition and the stalling of the visa liberalization process. Although the Brussels Agreement has brought positive results strengthening Kosovo's presence as an independent state and treating Kosovo as a state, Kosovars also see it as continuing interference of Belgrade and foreign actors in their affairs. This exacerbates tensions as the population is tired of living in a state in limbo, feeling that they make constant concessions to the EU and Serbia without receiving the appropriate returns, that is, international recognition.

Therefore, external recognition and internal viability are closely related, with external recognition strengthening internal viability. Throughout the process of Kosovo's secession external actors have shaped the outcome of its secession. Their neglect in the early 1990s had resulted in the failure of its first attempt to secede, whereas their continued support since 1999 has made Kosovo's secession a *fait accompli*.

The question that remains to be answered then is why the West supported so much Kosovo's second secession. There are at least two reasons for that. The first reason revolves around geography as Kosovo is located in Europe. In an event of destabilization, outbreak of conflict, or extreme poverty, the EU countries would be affected with waves of refugees or would be themselves endangered with potential spill-over of the conflict on their own territory. The EU seeking to minimize the possibility of this event has supported Kosovo's stability and viability through constant financial, technical, and institutional assistance. In addition, the EU cannot afford having a black hole of insecurity in its neighborhood, which allows illegal activities to penetrate its territory. Hence, the EU, seeking to secure its own borders, supports Kosovo's state building process, aiming to create a solid state able to posi-

tively add to regional security. In addition, after Kosovo declared independence there seemed to be no other alternative that would sufficiently ensure peace and stability in the region, but to support the survival of the newly created state.

The second reason is that Kosovo's unilateral secession is an outcome of the series of actions the West has undertaken since the 1990s. The NATO military intervention and the subsequent *de facto* separation of Kosovo from Serbia initiated the process toward Kosovo's secession. After the atrocities that happened on the ground against Kosovo Albanians during the air campaign and the reversed atrocities against Kosovo Serbs that followed after the NATO troops entered Kosovo, the viability of a plan of Kosovo returning under Belgrade rule was limited. In addition the combination of the NATO intervention and the position of Kosovo under international administration created an emotional process and a firm belief to the Kosovo Albanians that they had achieved independence. Thus, the Kosovo Albanians after 1999 would accept nothing less than independence, while any other imposed settlement would potentially result in an outbreak of violence and destabilization. The West could also not force a solution where Kosovo would return to Serbia without undermining its credibility. Having so fervently promoted the rights of Kosovo Albanians, and having justified the intervention against Serbia on humanitarian reasons, it would be difficult to impose and justify a settlement where Kosovo would be forced to return under Serbia's rule. Thus, the West's actions, including NATO intervention, the *de facto* secession of Kosovo from Serbia, and the one-sided conduct of the Vienna negotiations, resulted into an impasse where Kosovo could not return to Serbia's rule and could also not become independent with Serbia's consent. Hence, the only way in which the West would continue to defend its strategies would be to support Kosovo's successful secession after it unilaterally declared independence in 2008.

All in all, Kosovo's secession succeeded because Kosovo was able to secure external support to mobilize resources that promoted its international recognition and its internal viability. This did not happen suddenly in 2008, but it was a long process taking place over several years at and across different levels of analysis. Dominos of events and interaction of actors at those levels and the geographic location of Kosovo in Europe tied international actors into an alliance with Kosovo that resulted in this firm support in favor of its secession.

Despite this book being focused on Kosovo as a single case study, it is also relevant for the understanding of other cases of secession as well. The elements of internal viability and international recognition could be applied to assess the success of various secessions being either an outcome of unilateral act or not. Moreover, the levels of analysis model can be further employed for the understanding of the outcome of other secessionist attempts

both successful and failed. This analytical framework could shed light, for instance, on the secessions of Abkhazia and South Ossetia, two cases that share similarities with Kosovo, but have, however, great difference in the international acceptance they received.

Finally, this research has a wider contribution in the field of conflict resolution and management of separatist demands. There are several lessons to be learned from the case of Kosovo so as to how to manage similar issues. This knowledge could be used both in order to prohibit secession and alternatively in order to ensure its success preventing the creation of an unrecognized—or a partially recognized—entity. This book teaches, for example, a great deal about the shortcomings that were produced out of the arrogance of the West and the marginalization of Serbia; shortcomings that led to the successful stalemate of Kosovo. As lessons learned can always be used both ways, this book provides a useful analysis both for those in favor and those against secession, shedding light on actions that better be avoided in order either to prevent secession or to ensure its success.



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